

# *Japan* Labor Review

Volume 12, Number 2, Spring 2015

## Special Edition

## Changes in Industrial Structure and Reallocation of Human Resources

### Articles

Support for Workers Displaced in the Decline of the Japanese Coal Industry:  
Formal and Informal Support

*Naoko Shimazaki*

The Development of New Businesses and Quasi-Internal Labor Markets  
in Japanese Firms

*Yasuo Dan*

Labor Mobility and Employment Policy

*Yoichi Shimada*

Productivity, Demand and Inter-Sectoral Labor Allocation in Japan

*Etsuro Shioji*

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Industrial Action and Liability in Japan: A Legal Overview

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### Articles Based on Research Report

Career Interruption of Japanese Women: Why Is It So Hard to Balance  
Work and Childcare?

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International Comparison of Unemployment Compensation Programs:  
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### JILPT Research Activities



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NEXT ISSUE (Summer 2015)

The summer 2015 issue of the Review will be a special edition devoted to **Long-Term Unemployment: The Current Situation and Remedial Measures**.

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## Introduction

### **Changes in Industrial Structure and Reallocation of Human Resources**

It goes without saying that labor is the single greatest resource for the creation and cultivation of industry. Industry as a whole cannot grow unless the required human resources are available for the industries that are in demand, and if we look back at history, the inter-sectoral flow of labor in a variety of forms has played a fundamental role in the Japan's industrial development. Today, the nation is faced with the challenge of pulling out of a prolonged economic slump and fostering industry that can compete and succeed in the global arena. Another urgent task is the cultivation of industries that meet the needs of a progressively aging society. Doing so will require the redeployment and inter-sectoral allocation of human resources, and the central government is strongly emphasizing the need for "reallocation of labor to grow industries without causing unemployment."

Reallocation of labor accompanying industrial restructuring entails a range of issues related to the new fields workers are entering, including changes in work conditions, acquisition of skills and techniques required for jobs in new fields, and training to develop new competencies. Changing jobs can also mean moving to a new location, and for the workers in question often involves family matters such as finding a new home, transferring children to a new school, or dealing with the care of elderly parents. This means that pursuing industrial development and achieving effective allocation of labor requires efforts on a wide variety of fronts, and may call for measures specifically tailored to the country and historical period.

In Japan, modern history has seen the weight of industry shift dramatically from primary, to secondary, to tertiary—for example, energy sources have evolved from coal, to oil, to nuclear and other sources, and the focus of manufacturing from light to heavy industry, and then to precision engineering. This process has been guided not only by national economic and industrial policy, but also by employment policies. Meanwhile, companies, labor unions and so forth have formed cooperative frameworks and taken active steps to further this evolution. Propelled by forces from various directions, Japan has thus far gone through any number of industrial paradigm shifts, which have always been accompanied by the requisite inter-sectoral reallocation of labor. In Japan, in addition to the allocation of human resources through the external labor market, there has been a strong tendency for companies to transfer the necessary personnel within their organizations, in line with business expansion in general and diversification strategies in particular, with loaning and transferring of human resources within corporate groups contributing to the cultivation of new industries. Over the years, the relation between new industries and allocation of labor has taken on a variety of forms.

With this in mind, this feature examines the allocation of labor accompanying changes in industrial structure in Japan, through articles by experts in a variety of fields that ex-

amine the issues from diverse angles. In addition to reviewing the history of industrial evolution and human resource reallocation in Japan and clarifying their traits, the articles herein analyze and comment on the path it ought to take in the future.

Naoko Shimazaki's "Support for Workers Displaced in the Decline of the Japanese Coal Industry: Formal and Informal Support" discusses the allocation of labor in the coal industry, which is a quintessential example of Japan's industrial restructuring. While coal mining played a central role in Japan's postwar recovery, it fell into demise thereafter due to changes in the structure of the energy industry, resulting in massive reallocation of labor. More than 200,000 workers were displaced from the mid-1950s onward, in connection with the 1955 Act on Temporary Measures concerning Rationalization of Coal Mining and closures of coal mines due to rationalization starting in 1957. Changing the structure of the energy industry was made a pillar of national policy, and the task of providing measures for displaced workers was recognized as an issue with considerable significance for the interests of society as a whole, to be addressed not only by the firms involved and the individual coalfield regions, but also at the national level. Thus, in addition to companies' reemployment measures and placement services, and employment placement committees established by labor and management, there was cooperation with local government entities such as Public Employment Security Offices and branches of the Employment Promotion Corporation, which provided reemployment support. In addition to financial support, displaced workers received wide-ranging support with finding reemployment and relocation, including information sessions on employment, on-site visits, and individual counseling sessions. There was also informal support based on the unique culture of coal mining and solidarity among mine workers. In periods of transition of industrial structures, workers forced to change industry require not mere temporary, stopgap unemployment measures but "comprehensive measures" over a reasonable period of time, and support based on the circumstances of each individual. Measures that were effective in the transition away from coal mining constitute an important legacy that needs to be carried on today and in the future.

The next article, "The Development of New Businesses and Quasi-Internal Labor Markets in Japanese Firms" by Yasuo Dan, examines not the inter-sectoral reallocation of human resources through the external labor market, which Shimazaki's article showed to be a key focus of national policy, but on internal personnel transfers within corporate groups, i.e. quasi-internal labor markets, and their relation to the development of new businesses. In the majority of cases, Japanese firms choose to utilize existing internal resources when pursuing new businesses, procuring and retraining personnel from within the firm or corporate group. This state of affairs is strongly related to the practice of lifetime employment. When entering into new businesses, Japanese firms have sought to protect the jobs of existing employees by relocating them internally through temporary transfers (*shukko*) and permanent transfers (*tenseki*), meaning that personnel relocation has been a key factor in generation of new businesses. Matching the right employees to the right jobs is essential to this process, and this has generally been achieved smoothly because the human resources departments of

Japanese firms have gathered and analyzed the necessary information about their personnel, and reassigned, retrained, and provided ongoing support for employees based on this information. These practices have produced significant positive results in that they enable labor reallocation without a phase of unemployment. Dan's article highlights the unique relationship between new business development and personnel relocation through quasi-internal labor markets, and asserts that the time is ripe for examination of how Japanese firms should build on this legacy in the future.

The two articles discussed thus far have been primarily focused on analysis of the historical record, but the remaining two focus on analysis of current employment policies and labor markets. Yoichi Shimada's "Labor Mobility and Employment Policy" discusses issues of employment policy, based on the viewpoint of achieving total employment (i.e. a labor market that can respond with smooth labor mobility without causing unemployment). This has been highlighted as a policy task within the growth strategy of the Abe administration, and it is evident that to achieve such smooth mobility, the labor market should be made more flexible. The article notes that in Japanese postwar employment measures the external labor market was insufficiently developed, and while the importance of labor market functions has been recognized and reflected in legal principles, the problem has lain in putting them into full effect. To improve the current situation, with a labor market polarized between regular and non-regular employees, Shimada's article proposes supporting the creation of regular employment systems in which the scope of work, working hours, place of employment and other aspects are restricted, although the term of the contract is not stipulated ("restricted regular employee" systems), and reforming regulations on human resource business. Restricted regular employment systems should be created as separate personnel systems alongside conventional regular employment systems, i.e. systems for unrestricted regular employees, and the requisite regulatory framework needs to be put in place. Meanwhile, with regard to worker dispatch systems, the article advocates a shift of focus from preventing substitution of full-time workers, i.e. functioning to protect unrestricted regular employees, to prohibiting abuse of agency labor.

Etsuro Shioji's "Productivity, Demand and Inter-Sectoral Labor Allocation in Japan" also contains a wealth of policy implications. It begins by analyzing recent trends in inter-sectoral labor allocation in Japan, finding that three service sectors (medical and health services, corporate services, and information services) have been expanding at the expense of manufacturing and drawing labor away from it. Next, the paper examines the two driving forces behind inter-sectoral labor allocation, namely relative productivity across sectors (the supply side factor) and the relative demand for goods and services produced by different sectors (the demand side factor). In terms of productivity, growth has been strong in manufacturing and particularly in the electronics sector. However, this does not mean that labor allocation to this sector has been optimal. When increases in productivity cause major price drops, it should result in a withdrawal of labor from the sector in question, but although there have been significant price declines in electronics, Shioji's article notes that realloca-

tion of labor away from this sector has been sluggish. Meanwhile, it is growing demand that has primarily driven increased allocation of labor to the three growth sectors. In the medical and health service sector, in particular, despite large labor inflows, there is a chronic and massive labor shortage connected with population aging. The fact that prices of those services are fixed, and do not react to market conditions, is given as one possible factor. It means that in spite of the high demand, wages remain low, and the sector fails to attract labor fast enough.

This feature aims to shed light on some aspects of Japan's industrial restructuring and human resource reallocation. Japan's population is expected to shrink in the future, meaning that industrial growth will depend even more on the optimal allocation of limited and precious human resources. However, all of the articles herein make it clear that the reallocation of human resources in line with changes in the industrial structure is not going to be a smooth or easy process. It will require measures tailored to Japan's specific situation, and there is a greater need than ever for comprehensive, multifaceted analysis and discussion of the issues.

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# Support for Workers Displaced in the Decline of the Japanese Coal Industry: Formal and Informal Support

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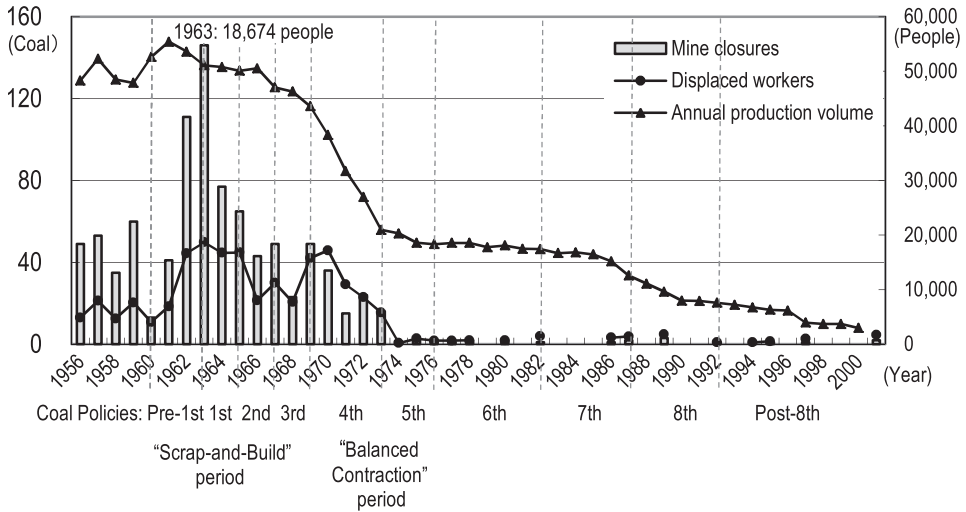
Japan's coal industry met its demise following a number of stages of restructuring under policies to change the structure of the energy industry. More than 200,000 coal mine workers were displaced from 1955 onward. The task of providing measures for displaced workers was recognized as an issue to be addressed at national level and such initiatives were considered to have considerable significance for the interests of society as a whole. This led to the development of substantial support systems of the kind not seen in other industries, and *comprehensive measures* were adopted to cover not only reemployment, but also relocation, housing, and vocational training. However, fundamental issues faced by the unemployed were left unresolved. Formal support therefore in fact relied on the strength of individual companies and regional communities, and developed distinct characteristics. The insufficiencies of the formal support systems were compensated for by informal support based on personal relationships which were characteristic of the unique culture of coal mining. In particular, there was a strong sense of solidarity among fellow mine workers. The support for displaced workers included not only financial assistance, but also individual support, such as individual counselling and employment assistance provided by former coal mine employees acting as counselors. The labor unions played a central role in developing these measures. Such support was very strongly in tune with the workers' culture generated within coal mining communities.

## I. Coal Policy and Measures for Displaced Workers in Japan

The coal industry is a typical example of industrial restructuring in Japan. Alongside the steel industry, the coal industry was considered a key industry and a priority among industrial policies in Japan's postwar recovery period. However, when it faced a downturn in 1953 to 1954, the coal mining industry was faced with the task of rationalization. In 1955, the Act on Temporary Measures concerning Rationalization of Coal Mining was enacted. The severe downturn from 1957 onward then led to a series of mine closures due to rationalization. The Japanese government embarked on its "Scrap-and-Build" policy, which aimed to lower production costs and improve the industry's ability to compete by making

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Source: Compiled with reference to data from the Japan Coal Energy Center (2003).

Note: The numbers of displaced workers given here do not include workers displaced due to rationalizations.

Figure 1. Coal Mine Closures, Displaced Coal Mine Workers, and Annual Production Volumes under Government Coal Policies

distinctions between mines which should be expanded through government investment and mines to be left as they were or marked for early closure (Employment Promotion Corporation 1992a, 125). From the introduction of the First Coal Policy in 1963 onward, the coal industry was at the mercy of a series of nine changes in policy over the 40 years until 2002 (See Figure 1).

The policy changes were conducted against a background of competition with both oil and imported coal. These developments were also accompanied by growing movements in the international coal industry toward nationalization and unifying companies into single corporate groups, such as the nationalization of the British coal mining industry and the introduction of government support for coal mining companies in Germany. However, nationalization or other such approaches were not adopted in Japan, where mines remained under the management of private companies, mainly *zaibatsu* conglomerates, until the end of the coal industry.<sup>1</sup> As such, the Japanese coal industry met its demise following a long process of several stages of restructuring under policies to change the structure of the energy industry. From 1955 to 2002, 928 coal mines were closed and more than 200,000 workers were displaced due to mine closures. At present, the only mine where drilling is still conducted is the Kushiro Coal Mine Co. Ltd., where it is carried out for training provided to

<sup>1</sup> See Culter (1999, chap. 1) and Shimazaki (2010, 2015) for more on the processes of restructuring in the coal industry in Japan.



visiting engineers from abroad as part of international technology transfer programs conducted by the Japan Coal Energy Center (JCOAL). These programs also include sending Japanese expert engineers to participating countries.

From 1953 onward, unemployment and poverty issues for displaced coal mine workers were already escalating in coalfield regions, mainly in the Chikuhō region of Kyūshū.<sup>2</sup> These issues formed the background to the enactment of the 1959 Act on Temporary Measures for Displaced Coal Mine Workers. The act was a “special legislation to provide long-term and comprehensive measures for displaced coal mine workers, strongly taking into account the structural nature of the downturn in the coal industry, the occurrence of high concentrations of displaced coal mine workers in regional communities, and the difficulties of reemployment placements which necessitate relocation” (Employment Promotion Corporation 1992a, 128). Namely, this was an undertaking to go beyond the “stopgap measures largely focused on absorbing unemployed workers into public initiatives and projects for unemployment measures,” which had been pursued up until that point, to provide “comprehensive measures for displaced coal mine workers,” including reemployment placements across a wide area, vocational training, and assistance services (Employment Promotion Corporation 1992a, 129).

In 1963, the Act on Temporary Measures for Displaced Coal Mine Workers was amended, developing a framework to ensure that mining rights holders were obliged to provide employment support measures<sup>3</sup> and to establish the Unemployment Insurance System for Displaced Miners (the “Black Notebook System”). Through the Black Notebook System, the support framework was changed into a benefits system based on the notebook, as opposed to the former approach, which had been aimed at arranging for displaced workers to be absorbed into other programs, such as emergency employment programs and unemployment-relief programs (Employment Security Bureau, Ministry of Labor 1971, 209). The Black Notebook System remained in use for around 40 years until the abolishment of the Act on Temporary Measures for Displaced Coal Mine Workers in 2002.

It is also important to note—although it will not be explored further in this paper—that the framework of measures for displaced coal mine workers was also supplemented by the coal industry’s unique pension system. Under the coal-mining pension system, the coal mine proprietors bore the cost of the premiums (70 yen per ton of coal produced), and the Coal Mining Pension Fund, which was established in 1967, continues to

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<sup>2</sup> See Yoshimura (1984) for a detailed account of the situation regarding unemployed workers from medium and small-sized coal mines in the Chikuhō region from around 1954 to FY 1958. More on the hierarchy in Chikuhō can be found in Smith (2005).

<sup>3</sup> Article 7 states: “Holders of mining rights...must cooperate with the Public Employment Security Office and the Employment Promotion Corporation to take the necessary measures regarding developing job vacancies and providing other forms of assistance for finding employment, in order to promote employment opportunities for coal mine workers who have been forced to leave their jobs due to cases of rationalization in the mining industry, such as the cessation of mining or the modernization of coal mine shafts.”

handle the payment of pension benefits. This pension was paid to retired workers in addition to employees' pension insurance. Moreover, the age from which former workers were eligible to begin receiving pension payments was earlier than in general industry, and this had the effect of curbing the escalation of problems regarding the reemployment of older displaced coal mine workers.

As shown above, while the Japanese coal industry was not placed under a framework of government management, measures for displaced coal mine workers were recognized as an issue to be addressed on a national level, rather than simply being seen as the specific problems of private companies or each coal mining area. Support measures were recognized as national initiatives of considerable significance for the interests of society as a whole. Government funding injected into measures for displaced workers and other coal policies apparently rose to four trillion yen (nominal value) in terms of the budget allotted (Shimanishi 2011, 7). The scale and importance of the coal industry in Japan, and the high concentrations of unemployed in regional communities were the main factors which led to the development of such substantial systems specifically for displaced coal mine workers. Sukanuma (1997) also highlights the following three political and economic factors (Sukanuma 1997, 38). Firstly, the tenacity of the coal mine labor movement played a role in the development of measures. With the significant political influence of the labor movement in the background, a key motivation for such measures was avoiding social unrest. Secondly, in the process of Japan's postwar recovery, the coal industry was revitalized as an industry with strong elements of state control, and the government was in a sense effectively responsible for guaranteeing employment in the industry. Thirdly, the awareness of external downturn due to shifts in the international structure of energy demand also played a role, as change in the structure of the industry was regarded as an inevitable industrial crisis originating from external factors. This crisis was thought to exceed the capacity of the management efforts of employers, labor unions and other parties concerned, and intervention in the form of government policy was seen as unavoidable.

In the light of the processes of restructuring in the coal industry noted above, this paper outlines how displaced coal mine workers found careers in other businesses and industries, and how the employment measures and support which were provided assisted them in doing so. This reveals the following two points. Firstly, although the Unemployment Insurance System for Displaced Miners (Black Notebook System) was developed to support displaced coal mine workers, fundamental issues were left unresolved, and as a result, support for displaced workers relied on the strength of individual companies and regional communities. Secondly, personal support founded on the unique culture of coal mining, in particular the sense of solidarity among workers, has compensated for the insufficiencies of the formal support systems.



Figure 2. Major Coalfields and Major Cities in Japan

## II. Relocation of and Support for Displaced Coal Mine Workers

### 1. Reemployment and Relocation of Displaced Coal Mine Workers

Displaced coal mine workers had three distinctive characteristics. Firstly, they were concentrated in regional areas (and peripheral regions), reflecting how the coal industry came into existence and its modes of labor. Secondly, it was difficult for displaced workers to switch to employment in a different industry. Thirdly, their displacement from work also led to their family losing the entire foundations upon which their lives were built. Displaced workers had no choice but to enter a different form of employment, which meant relocating within society, while at the same time relocating to a new region. The relocation of large numbers of displaced workers had the potential to place entire regional communities on the verge of collapse, as it exerted their influence on many areas, including not only the economy of coal mining areas but also issues related to children's education and welfare for the elderly.

At this point, let us introduce the main coalfields in Japan. As shown in Figure 2, there were large-scale coalfields in Kyushu and Hokkaido, considerable distances from major urban areas such as Tokyo, Osaka, and Nagoya. The development of the coal industry

began towards the end of the 19th century. Initially focused in the Kyushu area, it was later expanded to include Hokkaido. As a result, decline in the coalfield regions began in Kyushu. In Hokkaido, new coal mines were still being established up until the 1980s.

It was difficult for displaced coal mine workers to seek employment in other industries, due to the specialist nature of the technical skills they acquired in coal mining, and due to the fact that, in the case of coal-miners who worked inside the mine shafts, wages were relatively high. Moreover, there were five trends evident in the wishes of displaced coal mine workers seeking employment: many overall wished to remain in the places where they grew up; particularly the younger ones wished to find employment at an early stage; older workers, in particular, strongly wished to be employed by other coal mines; workers wished to live in housing provided by their new place of work; and workers, again primarily the younger ones, wished to receive vocational training in preparation for entering work in a different industry (Shimazaki 2012).

Bearing in mind the characteristics of displaced workers described above, there were five types of businesses or other entities which were able to take in such workers. Firstly, “second companies” or “second mines”—namely companies or mines established in the process of a closure as a potential means of redeveloping the closed mine or business—played a significant role in providing reemployment for displaced workers from the “Scrap-and-Build” period (1959–67) to the “Balanced Contraction” period (1968–72). However, the future prospects of such companies were low. This led to a mismatch, because older workers who remained in their hometowns wished to be employed by such companies in order to avoid having to change industry, but employers had a strong tendency to employ younger people with the aim of strengthening operations.

The second type of businesses that could take on displaced workers were other coal mines. As will be described later in this paper, in Hokkaido efforts to find reemployment for displaced coal mine workers at different mines (generally referred to as *tanko-fukki*, which can be translated as “returning to mining work”) were made a priority due to the chronic shortage of labor in “build mines,” these mines which were to be expanded through government investment. For example, the Mitsubishi Minami Oyubari Mine, which was established in 1966 as a “build mine,” was formed by employing coal mine workers who had been displaced due to closure of other mines. At the height of its prosperity, 1,540 workers were working at the mine.

Thirdly, affiliated companies also offered reemployment to displaced workers. Such companies were the result of major coal producers diversifying or transforming their management, and they were also recommended by the government in coal industry policies. Companies established in the local towns of coal mines in particular functioned as the main locations for taking on displaced workers in the local area. In the case of *zaibatsu* conglomerates, it was also possible to absorb workers into group companies.

The fourth type of reemployment opportunities were positions in general industries, which played a pivotal role in displaced coal mine workers finding reemployment in indus-

tries other than coal mining. As part of policies to develop coal mining areas, efforts were made to attract companies to set up business in the local areas, but these efforts met with difficulty. As a result, most reemployment placements for displaced workers were organized through placement services operating over extensive areas. Reemployment therefore inevitably involved relocating to a different region, and significant numbers of workers relocated from Kyushu to the Kinki region (Osaka and Hyogo prefecture) and Chubu region (Aichi prefecture), and from Hokkaido and the Joban region to the Keiyo and Keihin Industrial Zones in the greater Tokyo area. Efforts to develop employment opportunities in general industry also included active efforts to encourage companies to employ displaced workers in groups, both through mass recruitment and through hiring older workers and white-collar employees together with younger workers in packaged groups. Employment in general industry was at the core of measures for displaced workers. However, for displaced coal mine workers, employment in general industry meant converting industry and relocating to a different region, and the particular challenge of adapting to urban life. There was therefore a strong tendency among workers to have reservations regarding reemployment in general industries. One of the solutions for this was for workers to be employed in groups.

The fifth option for displaced workers was pursuing vocational training as preparation for the necessities of changing industry and relocating as described above. There were also workers who attended vocational training on the basis of a guarantee of employment with a company in another industry. Many displaced workers, in particular younger workers, requested the opportunity to take vocational training.

Given that, workers were motivated to seek employment and there were businesses to take them, as well as other options, under the Black Notebook System displaced workers successfully reentered employment within the period for which unemployment insurance benefits<sup>4</sup> were provided and the subsequent period during which employment promotion benefits were paid (a total of three years). The result can be seen from statistics of the trends in displaced workers in each region.<sup>5</sup> Of course, the ability of workers to find reemployment varied depending on the coal mining area, the timing of the coal mine closure, the characteristics of the coal producer, and the individual characteristics of each worker. Table 1 presents a section of the trends in workers displaced due to coal mine closures from 1963

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<sup>4</sup>The number of days for which workers could receive unemployment insurance benefits was initially 270 days but was later extended. In the case of Ikeshima Mine and the Taiheiyo Mine, the last two mines to close, the unemployment insurance benefit period was extended to 330 days. This reflects just how severe the situation was for displaced workers. In fact, the potential for displaced workers to secure new employment differs significantly according to timing of the closure (Shimazaki 2012).

<sup>5</sup>From the launch of the Black Notebook System in FY 1962 up until FY 1970, the trend in reemployment of displaced coal mine workers across Japan (116,250 people) was such that 83.9% of workers entered employment in secondary industries—of that 83.9%, 72.5% entered employment in the manufacturing industry, and 7.9% in the construction industry. 53.0% of workers relocated outside of the prefectures of coal mining regions, with the highest percentage, 25.6%, relocating to Aichi Prefecture. From the Employment Security Bureau, Ministry of Labor (1971, 341, reference table 4–20).

Table 1. Numbers of and Trends in Workers Displaced Due to Coal Mine Closures  
(Includes only the mines covered in this paper and a selection of other mines)

Name of mine	Date of closure	Region	Number of displaced workers	Net number of displaced workers who sought reemployment	Percentage reemployed	Timing of calculation of reemployment percentage (months after dismissal)
Kaijima (Sixth rationalization)	September 1966	Fukuoka	1,923	1,839 <sup>a</sup>	91.7	9
Yubetsu	February 1970	Hokkaido	2,328	1,925 <sup>a</sup>	96.8	12
Joban	April 1971	Fukushima	4,702	4,171 <sup>b</sup>	91.2	16
Sumitomo Ponbetsu	October 1971	Hokkaido	2,335	2,032 <sup>a</sup>	69.0	5
Sumitomo Utashinai	October 1971	Hokkaido	1,124	943 <sup>a</sup>	79.2	5
Hokutan Yubari Shinko	October 1982	Hokkaido	1,905	1,711 <sup>b</sup>	57.6	3
Mitsui Miike	March 1997	Fukuoka, Kumamoto	1,553	1,317 <sup>a</sup>	80.9	50
Ikeshima	November 2001	Nagasaki	1,214	954 <sup>a</sup>	49.7	35
Taiheiyo	January 2002	Hokkaido	1,066	1,016 <sup>b</sup>	70.7	36

Sources: Kaijima: Takahashi and Takagawa (1987); Yubetsu, Sumitomo Ponbetsu, and Sumitomo Utashinai: Hokkaido Employment Aid Association for Displaced Coal Mine Workers (1978); Joban: Shimazaki (2004); Hokutan Yubari Shinko: Oba (2011); Mitsui Miike: Kodama (2001); Ikeshima: Hama (2004); Taiheiyo: Shimazaki and Sudo (2012).

Notes: <sup>a</sup>White-collar employees, miners, day laborers (temporary workers, subcontractors).

<sup>b</sup>White-collar employees, miners.

onward.

For example, the closure of the Joban Coal Mine (Iwaki City, Fukushima Prefecture) in 1971 saw the largest number of workers discharged in the closure of a single mine in Japan, with 4,702 people discharged from their jobs. 91% (3,804 people) of those who sought reemployment (4,171 people) had entered new employment within 16 months of being discharged (Shimazaki 2004). 993 people (24%) entered employment at the Seibu Coal Mine, the second company mine newly established as part of the closure, and 2,612 people (63%) entered employment in other industries. Many of those who entered other industries joined affiliated companies in the local area, but 1,115 people (27%) relocated outside of Fukushima prefecture, mainly to Tokyo, Chiba, and Kanagawa.

## 2. Content of Measures and Support for Displaced Workers

### (1) Frameworks for Measures for Mine Closures and Displaced Workers

It is not easy to arrange reemployment opportunities for almost 5,000 displaced workers and arrange their relocation in a short period of time, as was the case at the Joban Coal Mine. These measures were developed over a long period, as a large-scale project involving not only the mine itself but also the regional community as a whole (Shimazaki 2004, 44–46). This section of the paper begins by analyzing the Joban Coal Mine as an example of establishing the types of measures and support provided for displaced workers by coal producers, labor unions, and local regional communities.<sup>6</sup>

In the case of the Joban Coal Mine, labor and management representatives established a headquarters for employment measures and began collecting information on potential reemployment opportunities in mid-February in preparation for the closure of the mine on April 29, 1971. The headquarters also conducted a survey of all workers due to be dismissed to ascertain their intentions regarding seeking reemployment. At the same time, the local region, Iwaki City, in collaboration with the Public Employment Security Office—the government-run employment placement and counselling agency—established a framework to develop new job opportunities, provide employment counselling, and introduce employment opportunities. Under this framework, the actual employment measures were energetically pursued from directly after the closure of the mine until the end of unemployment insurance benefits in May 1972. The four fundamental tasks for the employment measures headquarters were securing mass recruitment offers, promoting the employment of older workers, developing new employment opportunities in local companies, and persuading workers to accept reemployment outside of the prefecture.

As described above, work on measures for displaced workers began at the stage at which the timing of the mine closure was decided, prior to the conclusion of the official agreement between labor and management regarding the closure. As a result, the framework was already in place by the time the mine closed. The measures were also conducted with

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<sup>6</sup> See Shimazaki (2011a, 2011b) for more information on the Joban Mine.

the aim of securing reemployment for the displaced workers within the period in which they would receive unemployment insurance benefits. This was achieved through a framework based on collaboration between two entities. One of these was the coal producer or the operator of the mine location, which initiated the company's departments for employment measures and employment placement, and the employment placement committees established by labor and management. The others were local government entities, responsible for organizing the labor-related departments in each prefecture, the local Public Employment Security Office, the branch of the Employment Promotion Corporation, and the liaison councils of other related locations.<sup>7</sup>

## (2) Individual Support: Counselling and Employment Placement Assistance by On-Site Counsellors

Naturally, reemployment following displacement was the problem of the individual worker, and workers required specific individual counselling and support in order to secure reemployment. This mainly involved matching up the wishes of the displaced worker with employment opportunities.

In the case of the Joban Coal Mine, activities to secure new employment for displaced workers began on May 5, shortly after the closure of the mine. At that point, the number of job openings was a total of 11,250 positions in 548 companies, but the number of opportunities in local companies was noticeably limited, with only 114 companies and 2,852 positions available (including affiliated companies). The employment measures headquarters and the Public Employment Security Office therefore pursued counselling and employment placement efforts which focused on both developing new opportunities in local companies and placing workers in employment outside of the prefecture.<sup>8</sup>

Looking at the reemployment placements secured as a result of these efforts, the number of workers placed through mass recruitment rose to 1,457 people overall. 11 companies hired at least 20 employees each, with the largest number, 993 people, being hired by the Seibu Coal Mine, which was the second newly established mine. Three other companies hired 100 people, 72 people, and 59 people respectively. 464 of the total 1,457 placements were outside of the prefecture.

As described above, in addition to receiving financial support in the form of unemployment benefits and other means, displaced workers also received individual support with finding reemployment and relocation. For example, a number of events were hosted, such as information sessions for all workers on unemployment insurance and other such matters, information sessions on employment (including company presentations, and counselling sessions), and on-site visits. Individual support was provided by using formats such as "employment counselling cards" to conduct surveys to ascertain the wishes of workers, and

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<sup>7</sup> The situation of the closure of the Kaijima Mine in 1970 is given in detail in Takahashi and Takagawa (1987).

<sup>8</sup> For more details, see Shirai (2001).



conducting interviews using the information collected in such surveys to introduce and explain suitable employment opportunities. In many cases, the wives of displaced workers also attended interviews. Workers and their partners sought a wide range of advice at the interviews, including information on salaries and allowances at the place of reemployment, matters regarding housing and schools for their children, problems regarding elderly parents, and employment opportunities for the wives of workers after migration.

When it came to making the final decision on the new place of employment, many displaced workers did not have criteria on which to make a judgment, and it was necessary to give them a supportive push forward. People involved in providing such support described the situation as follows: “There were few displaced workers who had their own criteria for making judgments. There were many people who ultimately struggled to make a decision, and felt that they had no choice but to choose between going by the opinion of an influential person close to them, following the recommendation of the advisor at the Public Employment Security Office, or relying on the advice of the employment placement department or the labor union of their mine” (Takahashi and Takagawa 1987, 103). Support providers also noted the following difficulties: “The Public Employment Security Office (“PESO”) provides employment guidance for displaced workers (and all unemployed people) on the assumption that they have the “will and ability to work,” which is the basis of receiving unemployment benefits. However, it is hard to provide such guidance due to the fact that the workers seeking support have difficulty in expressing themselves, a difficulty which is characteristic of coal mine workers. The displaced workers are suspicious of the employment guidance provided by PESO regarding their will to work, and are concerned that their unemployment benefits will be discontinued. This creates the impression for workers that PESO is a brutal organization which they need to be wary of, and with such a relationship it is difficult for displaced workers to choose the right jobs for them and this in turn affects the stability of their daily lives” (Okuda 1992, 437).

On-site counsellors therefore played a key role in acting as a go-between between the displaced workers and the Public Employment Security Office. These counsellors were employees commissioned by the Employment Promotion Corporation, an agency established by the national government. They were responsible for a broad range of tasks, mainly focused on counselling sessions for displaced workers and those entering reemployment, with the aim of “promoting the reemployment of displaced coal mine workers and ensuring the stability in their daily lives.”<sup>9</sup> They were selected on the recommendation of the labor union, and in many cases union officers were commissioned to take on these roles. As they were not employees of the coal producer or full-time union officials, and were also former

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<sup>9</sup> In addition to providing counselling sessions, the on-site counsellors had a number of tasks including liaising between employment seekers and the Public Employment Security Office on a wide variety of matters, responding to requests for advice regarding relocation, etc., providing counselling and guidance on lifestyle matters, and collecting information on new employment opportunities (Employment Promotion Corporation 1992b).

coal-mine workers well-known to the displaced workers, their advice was reassuring for the displaced workers who were not sure which way to turn after the closure of their mine.

These on-site counsellors also provided support for workers migrating to their new place of employment. There is a record of an employee who provided support for displaced workers at the Kaijima-Onoura Mine in Kyushu in 1976 as a member of the mine's employment placement department (Takahashi and Takagawa 1987, 102). This record notes that members of the employment placement department and on-site counsellors together provided all necessary support for migrations of large numbers of workers, including preparations and arrangements (also arranging for railway companies to increase train services), liaison, accompanying and escorting workers relocating alone to their new place of work, arranging for the transport of household belongings, and seeing off workers at the time of their departure. As a result, approximately 100 households, including both workers and their families, migrated from Kyushu to Tokyo, Osaka, and other locations within just one week.

One of the factors which explain why such substantial support and measures were adopted is the existence of coal mining communities which had formed in coal mining areas within the structures of companies and labor unions. These communities encompassed all aspects of the daily lifestyles of workers and their families, cultivating "fellow miners stick together" and "one mine, one family" mentalities which strongly influenced the measures which were adopted to support displaced workers (Ichihara 1997, 371).

### (3) Follow-Up Support for Reemployed Workers

The aim of support for displaced workers in the short-term was to find them new employment and support their subsequent relocation. However, in the long-term, the aim of support was to ensure that workers were settled in their new place of work. In order to do this, it was necessary to provide follow-up support to workers after their relocation. The follow-up support provided for displaced workers included visiting workers just after they had started work at their new place of employment to check up on them and make sure there were no problems, dealing with complaints, and providing guidance on how to settle in, as well as visiting workers around one year after they started work at their new place of employment. The latter was to respond to matters such as cases in which workers had been dismissed or had their status altered following the expiry of the employment stabilization subsidy paid to the company which employed them. In fact, a considerable number of workers became unemployed again after one year.

Follow-up surveys were considered an important part of the duties of the departments responsible for assisting with employment arrangements (Takahashi and Takagawa 1987, 107–8), and were conducted by on-site counsellors and labor union officers. For example, at the Shakubetsu Coal Mine (Hokkaido), which closed in 1970, a large-scale follow-up visit was carried out four months after the closure of the mine (Shakubetsu Labor Union 1970, 27–45). According to the visit records, which can be found in a publication to commemorate the dissolution of the labor union, two labor union officers visited 10 coal mines and 15

general industry locations in Hokkaido over a period of 20 days, and then went on to visit 10 other prefectures. The aim of the visit was to give encouragement to reemployed workers, to conduct surveys to ascertain the situation since these workers had entered employment, to deal with issues related to administrative matters, and other counselling duties. As far as the records of the visit suggest, former workers gave vent to feelings of being at a loss in their new places of employment, and the visiting labor union representatives responded by expressing their understanding and words of encouragement.

Interview surveys which I have conducted also confirm how reassuring such follow-up visits were for those who had relocated (Japan Association for Study of Former Coal Fields 2014, 136–37). Although it was already 21 years after his relocation, a displaced coal mine worker interviewed for these surveys still recalled two counsellors visiting him several times after he relocated from a major coal mine in Hokkaido to the suburbs of Tokyo in 1992. This worker was reemployed as a regular employee for a manufacturing company in the suburbs of Tokyo along with two of his friends. In relocating to Tokyo, he left his family behind in Hokkaido, and moved into the company dormitory. The following March he brought his family to live with him in Tokyo, and moved into housing run by the Employment Promotion Corporation. As there was a ten-year limit on the period of time in which he and his family could live in the housing, he later acquired his own house, in which he currently still lives. Following mandatory retirement he was again reemployed as a contract employee. He apparently still exchanges greeting cards at New Year with fellow former mine workers and counsellors from the mine.

### **III. Support for Displaced Workers in Hokkaido: Establishment of the Hokkaido Employment Aid Association for Displaced Coal Mine Workers and Assisting Workers to “Return to Mining Work”**

#### **1. Mines Closures in Hokkaido and Establishment of the Aid Association**

From the 1960s onward, the center of the coal supply industry shifted from Kyushu to Hokkaido. Hokkaido remained the center of the coal industry until the industry’s demise, and a number of mine closures and rationalizations occurred there over a long period of time. Support for displaced workers in Hokkaido was handled by an association that was formed to act as the core for providing support. This section of the paper will introduce the establishment and role of that association.

The Hokkaido Employment Aid Association for Displaced Coal Mine Workers (“the Aid Association”) was established in 1968 as an organization responsible for arranging the reemployment of Hokkaido’s coal mine workers displaced following the closure or rationalization of mines, with a particular focus on arranging for displaced workers to return to mining work. The Aid Association provided support for displaced workers in Hokkaido for 38 years until it was dissolved in 2006. Following its establishment, there were 80 coal mines, and 39,194 people requiring its support (Hokkaido Employment Aid Association for

Displaced Coal Mine Workers 2006, 2).

The Aid Association was a private-sector organization, and it was the Japan Coal Miners Union Hokkaido Regional Headquarters (JCMUH) that played a central role in its establishment. At the time of the Aid Association's establishment, there were almost 800 older workers who had remained in a certain coal mining area with no progress toward reemployment, and it was a matter of pressing importance to find reemployment for these workers. Moreover, problems were also arising regarding the difficulties displaced coal mine workers had in adapting to living in urban areas, particularly in Sapporo, such as becoming caught up in fraud incidents. The JCMUH was receiving "a constant stream of consultations." According to the workers themselves, "in terms of seeking help from organizations, naturally, displaced workers relied on the JCMUH as the only place to turn to, as it was part of the Coal Miners' Union." The JCMUH therefore established the Aid Association as a private-sector aid association in Sapporo, as an organization which would provide displaced coal mine workers with "counselling on all kinds of matters," and would aim to "pursue initiatives to provide the earnest and genuine support which can only be provided by the private sector" (Hokkaido Employment Aid Association for Displaced Coal Mine Workers 1978, 89).

The Aid Association had two main types of tasks: providing assistance and developing initiatives. The association's tasks for providing assistance included: (i) pursuing activities to support the reemployment for workers displaced due to rationalization following mine closures; (ii) developing measures to assist workers who were still unemployed and remained in the same place without progress toward reemployment; (iii) providing counselling; (iv) assisting workers with organizing housing; (v) pursuing organizational measures; (vi) conducting surveys (mainly follow-up surveys), and (vii) publicity activities. These tasks are the equivalent of the main responsibilities of the aforementioned employment measures departments founded by labor and management in other coal mining areas. Of these tasks, the first—assisting with the reemployment of displaced workers—involved duties such as conducting on-site guidance, running courses to promote reemployment, developing new job opportunities, providing guidance for workers on settling into their new jobs, and visiting workers to provide counselling.

## 2. Relocation for "Returning to Mining Work"

The reemployment support provided by the Aid Association was mainly focused on assisting displaced workers in returning to employment in mines as opposed to changing industry. As mentioned earlier in this paper, the situations faced by coal mines in Hokkaido diverged in two opposite directions—while at a number of mines workers were being displaced as a result of closures and rationalizations due to coal policy, at "build mines" there was a chronic lack of labor (Ichihara 1997, 371). One of the main focuses was to ensure that mines, in particular the "build mines," would continue to supply coal and avoid "labor-related mine closures." The coal producers and labor unions therefore shared the same

interests, and were able to establish a support system under which labor and management came together as one.

Statistics of reemployment trends from the Aid Association and each mine demonstrate that returning to mining work played a significant role as a means of reemployment for displaced workers. For example, in the closures of the Sumitomo Utashinai and Sumitomo Ponbetsu mines in 1971 a total of 4,716 people were dismissed—1,661 at Utashinai and 3,055 at Ponbetsu. Five months after the closure, 2,150 of the 3,459 people seeking reemployment had entered reemployment, of which 988 people had returned to employment at a mine. Of these 988 people, 575 were reemployed by another Sumitomo group mine at Akabira, and the remaining 413 people relocated to 14 mines and 24 coal mine subcontracting companies.<sup>10</sup>

When these two Sumitomo mines were due for closure, a temporary center for comprehensive employment counselling was established on site over a period of five months and sessions were held to provide workers with information on the assistance available. The Aid Association also made intensive efforts to provide support, assigning one counsellor to each mine to provide support on site.

Employees who returned to employment at mines were relocated to a large number of different mines, as opposed to being concentrated at a certain mine. In other words, relocations were not allotted systematically, but reflected the wishes of individual employment seekers and other factors. While this is described as “returning” to mining work, it was not simply a case of exchanges between the coal company dismissing workers and the coal company wishing to employ workers, but was reemployment in accordance with the official recruitment and employment seeking procedures based on the Unemployment Insurance System for Displaced Miners (the Black Notebook System).

### 3. Characteristics of Support Centered on the Initiatives of the Aid Association: Formal and Informal Support

As described above, the Hokkaido Employment Aid Association for Displaced Coal Mine Workers acted as a permanent organization to take responsibility on behalf of the coal producers and labor unions for employment assistance measures on the closure of each coal mine. It is understandable, while somewhat paradoxical, that this made it possible for major coal producers in Hokkaido to strategically pursue rationalization along their own unique methods from 1971 onward.

I shall now examine four points regarding the characteristics of the support provided to displaced workers in Hokkaido, which was conducted mainly by the Aid Association. Firstly, excluding workers who entered reemployment at mines, the majority of displaced workers who were relocated within Hokkaido relocated to Sapporo, Hokkaido’s largest city.

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<sup>10</sup> These figures are for December 30, 1971. The figure for the total number of workers who returned to employment at a mine was 35 people higher at the end of March 1972.

The support provided by the Aid Association was also developed with Sapporo as a base. (For this reason, initiatives to support workers displaced following the closure of the last mine to close, the Taiheiyo Mine in Kushiro, eastern Hokkaido, were hindered due to the practical distance of the mine from Sapporo.<sup>11</sup>) Among other tasks, it was essential to make efforts to encourage the development of employment opportunities and the construction of Employment Promotion Corporation housing in Sapporo. In terms of the individual support provided to displaced workers, an earnest approach was also taken towards problems regarding the education of workers' children (problems concerning transferring schools, in particular, problems related to transferring senior high schools). Support providers were also aware from an early stage of the problems regarding nursing care for workers' elderly parents and older people "left behind" in coal mining areas. Efforts were made to encourage the Hokkaido local government to increase the number of home caregivers as a means of supporting older people.

Secondly, counselling for displaced coal mine workers living in Sapporo was carried out on an ongoing basis, and displaced workers sought counselling on all aspects of lifestyle matters. Just as the JCMUH had proposed when establishing the Aid Association, counsellors aimed to provide workers with "earnest and genuine support, by really understanding them through face-to-face counselling in which they shared workers' concerns, troubles, and happy developments" (Hokkaido Employment Aid Association for Displaced Coal Mine Workers 2006, 2). From the late 1970s onward, the economic slump led to an increase in the number of cases of housewives seeking counselling regarding employment, to the extent that in the 1978 and 1979 fiscal years the association was considering the possibility of assigning a counsellor specifically for women's issues (Hokkaido Employment Aid Association for Displaced Coal Mine Workers 1988, 67).

Such support apparently also incorporated collaboration with groups known as "*yama-no-kai*" ("societies for former mine workers"), which were formed by displaced coal mine workers living in Sapporo. At their peak, there were as many as 21 *yama-no-kai* in Sapporo (all of these societies had been dissolved by 2012 due to the aging of their members). The fact that the *yama-no-kai* acted as a focal point for maintaining a consistently strong sense of solidarity among mine workers—which extended to those who had remained in the coal mining areas—helped to supplement the support provided by the Aid Association.

Thirdly, it should also be noted that follow-up surveys and surveys of workers who remained in mining areas were also conducted on an ongoing basis (Hokkaido Employment Aid Association for Displaced Coal Mine Workers 1978, 90, 140–42, 157–59, 180–81, 198–99, 219–20, 235–36). According to records, surveys were planned every year from 1970 onward. 2,000 people were selected from all displaced workers for a survey of work-

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<sup>11</sup> An interview survey with a former executive of the Hokkaido Employment Aid Association for Displaced Coal Mine Workers.

ers who had entered reemployment in general industry, initially mainly in Sapporo, to survey the actual conditions of displaced coal mine workers. This later became a plan to select a specific mine and follow up on all workers displaced from that mine, but this did not proceed according to plan. It is recorded that as a result a survey of workers living in Employment Promotion Corporation housing was carried out annually in a systematic manner.

As shown above, as far as close examination of the records suggests, the Aid Association adopted a considerable amount of responsibilities. In 1982, because of a serious accident and resulting closure by the government, at the most promising “build mine,” the Yubari Shinko Mine, it apparently became difficult for the Aid Association to provide employment support and support for returning to employment in mines to the accumulating number of workers who remained in their home areas. It seems that from 1982 onward the Aid Association struggled to tackle with its growing responsibilities, such as developing new employment opportunities.

Finally, the fourth point to address is that while the Aid Association was formed by “labor and management coming together as one,” it is fair to say that the actual work was carried out by the JCMUH. For this reason, as symbolized by the formation of the *yama-no-kai*, while the Aid Association was related to the political activities in the JCMUH, in terms of its roles as an organization, a distinction was drawn between the Aid Association and the Welfare Council for Displaced Coal Mine Workers, which was established in 1970 as an organization responsible for political activities.

#### **IV. Conclusion: The Effects and Challenges of Relocation Support**

As this paper has demonstrated, in Japan the processes of restructuring in the coal industry occurred over a prolonged period of time, and in that period large numbers of coal mine workers were displaced. The Japanese government recognized the relocation of these workers within society—which included those starting a new career in a different industry—as an issue for the nation as a whole, as opposed to the individual problems of private companies and each coal mining area, and adopted *comprehensive measures*, including measures not only for reemployment, but also relocation, housing, and vocational training. These were substantial measures and support systems of the kind not seen in other industries. However, fundamental issues of the unemployed were left unsolved. As shown in this paper, formal support for displaced workers therefore in fact relied on the strength of individual companies and regional communities and exhibited distinct characteristics. The insufficiencies of the formal support systems were compensated for by informal support based on personal relationships which were characteristic of the unique culture of coal mining. In particular, there was a strong sense of solidarity among fellow mine workers.

In concluding this paper, let us summarize the evidence which demonstrates the key role played by informal support. When facing closure, each mine developed not only financial support, but also individual, personal support in the form of individual counselling and

assistance with employment placement for displaced workers changing industry, mainly provided by on-site counsellors. As the case of the Employment Aid Association for Displaced Coal Mine Workers in Hokkaido clearly shows, the labor unions played a central role in providing these measures. Such approaches by the labor unions were possible due to union shop agreements and the fact that as in other industries in postwar Japan, workers were affiliated with both their company and their labor union.

Labor unions of closing mines also regarded providing support for displaced workers as a given part of their responsibilities. The background to this can be explained by looking at the situation in Hokkaido. It would appear that in Hokkaido the Japan Coal Miners Union, which had guided the approaches of each coal mine amid disputes concerning rationalization, maintained its role as a counselling service for displaced workers as the labor union of each coal mine was defeated in mine closure disputes. The Aid Association therefore took the central role in measures for displaced workers in Hokkaido.

Moreover, it is also conceivable that behind the individual support provided to each displaced worker was consideration for their specific characteristics. Namely, those providing support were trying to handle the issues of the lack of social skills<sup>12</sup> of the displaced coal mine workers and their resulting difficulties in adapting to life in urban areas. An effective means of tackling these issues was to utilize the “fellow miners stick together” mentality that workers had developed in the severe and also at times dangerous working conditions in the coal mining community. As this suggests, it is possible to make the interpretation that the support systems provided principally by the Aid Association, which incorporated substantial individual support, were strongly in tune with the workers’ culture generated by coal mining communities.

Naturally, there are issues and limitations regarding the measures and support provided to displaced coal mine workers. The first issue is the problem of the hierarchy applied to eligibility for support. The displaced coal mine workers dealt with in this paper were the directly-employed coal mine workers, who made up the majority of the coal mining community. There were three different levels among coal mine workers: white-collar employees, miners, and day laborers (subcontractors). The conditions faced by day laborers, the lowest type of workers in the hierarchy, were incomparably poor in comparison with those of the directly-employed coal miners, and this also applied in the case of mine closures. Many day laborers were not eligible to be issued with a Black Notebook for the unemployment insurance system, and many were not eligible to receive pensions from the Coal Mining Pension Fund. Such workers did not receive the kinds of support described in this paper. From their point of view, the unemployment and poverty issues which had been noted in Kyushu before the enactment of the Act on Temporary Measures for Displaced Coal Mine Workers also went unresolved in Hokkaido in later years.

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<sup>12</sup> More details on the sense of solidarity among and distinctive characteristics of Japanese coal mine workers can be found in Allen (1994).



Moreover, while white-collar employees had relatively favorable conditions while working for coal producers, when they were displaced following mine closures the new employment opportunities available to them were generally limited. In the case of *zaibatsu* conglomerates such employees were absorbed into group companies within the corporate group, but in other cases there were situations in which they were reemployed through hiring in packaged groups with former directly-employed coal miners.

The second issue was that, as shown earlier in this paper, support extended only up to the point at which workers entered reemployment or up to one year after their reemployment, and it was difficult to continue support until workers became settled after these points. Support to deal with workers who were later dismissed from their places of reemployment was insufficient. After the point at which support ended, it is difficult even to ascertain the situation regarding further losses of employment or stagnation among former displaced coal mine workers.

Finally, the third issue is that measures and support for displaced workers were generally those of the companies dismissing the workers, and the companies providing reemployment to such workers had not established frameworks for or stances toward such measures and support. It is not easy for displaced workers who have both changed industry and relocated to a new area to establish themselves in the community in their new area. Particularly those who migrated in large numbers due to being employed in groups, and started off living together in concentrated numbers in Employment Promotion Corporation housing before later spreading out in the community, were at risk of becoming isolated in their new community.

As demonstrated throughout this paper, the measures and support developed over the long course of restructuring in Japan's coal industry incorporated comprehensive and individual assistance. Naturally, it should be noted that such measures and support were achievable within the highly entrenched, collective bargaining-based frameworks of labor-management relationships under the company-centric social principles which were characteristic of Japan in the latter half of the twentieth century. In contemporary Japan, in which the flexibility and freedom of the labor market have developed and labor-management relationships have become more focused on individual relationships, measures and support such as those provided to displaced workers in the coal mining industry may even seem out of place. However, as we face a transition period for industrial structures, workers forced to change industry require not mere temporary patch-up unemployment measures but *comprehensive measures* offered over a reasonable period of time, and it is essential to provide support and placement assistance based on the circumstances of each individual. It is important to recognize the need for such measures and support and continue to develop them.

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# The Development of New Businesses and Quasi-Internal Labor Markets in Japanese Firms

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The objective of this paper is to investigate the approaches that Japanese firms have taken to securing and preserving human resources when entering into new businesses, and how these approaches are expected to change in the future. When entering into new businesses, Japanese firms have relocated personnel internally to protect the jobs of existing employees, and also used temporary transfers (*shukko*) and permanent transfers (*tenseki*) to expand the scope of personnel relocation to cover subsidiaries and other firms. When firms transfer employees temporarily or permanently, they face the challenges of matching the right employees to the right jobs, and providing employees with the appropriate training. The human resources departments of parent firms have accumulated experience in dealing with the former problem by gathering and analyzing information about the work and personnel in their firms and corporate groups. Firms have approached the latter problem by providing retraining for the personnel of the firm or the corporate group, including in cases when they are branching out into business fields in which they have limited know-how. Personnel relocation in Japanese firms started out as a means of preventing dismissals from being made when firms needed to restructure. However, as lifetime employment became increasingly established as a standard practice, personnel relocation came to serve as a means of maintaining the incentive for employees to improve their performance in the long term. Japanese firms have adopted this approach to personnel relocation and produced successful results when diversifying through the development of new businesses. The quasi-internal labor markets of Japanese firms hold an abundant accumulation of human resources and know-know on how to utilize these resources. Japanese firms have therefore reached the point where they need to review how they should utilize such resources when developing new businesses in the future.

## I. Introduction

There are two methods for firms to procure management resources in order to respond to changes in the management environment: procure them from external sources using methods such as acquisitions, or utilize existing internal resources. In the majority of cases, Japanese firms choose to utilize existing internal resources when pursuing new businesses, and human resources are no exception. The grounds for this are strongly related to the practice of lifetime employment. It is thought that Japanese firms have prioritized the use of existing internal human resources because they upheld the concept of protecting the jobs of existing employees, which established itself as a concept in Japanese firms in the process of labor-management disputes in the post-war period and later became a social norm in Japan.

Table 1. The Distinctions between Internal Labor Markets, the External Labor Market, and Quasi-Internal Labor Markets

	Target	Employment contracts	Fundamental principles
Internal labor markets	Regular employees	Contract term is not specified	The individual rules of each firm Long-term logic Organizational principles (Relationships based on authority)
External labor market	Non-regular employees <ul style="list-style-type: none"> <li>• Part-time employees</li> <li>• Employees dispatched from temporary agencies</li> <li>• Temporary employees commissioned by the firm</li> </ul>	Fixed-term contracts, employees not directly hired by the firm	Supply and demand mechanisms Short-term logic Market principles (Free movement of labor with price as a signal)
Quasi-internal labor markets	Temporary transferees Permanent transferees	Contract term is not specified	Cross between the internal markets and the external market

*Source:* Yashiro (2002, 8).

When firms attempt to respond to changes in the management environment while at the same time protecting the jobs of their existing employees, they face the challenge of matching the right employees to the right jobs. Unlike organizations in Europe and the United States, where individual employees are assigned with specialized roles, Japanese firms emphasize the importance of employees possessing abilities which are specific to the firm. Japanese firms have dealt with situations which do not involve significant changes to the business which they undertake—namely, cases which are limited to the restructuring of a number of factories or business locations which handle the same types of products—by relocating personnel internally. However, when faced with significant changes in the business environment, Japanese firms have at the same time pursued the practice of forming separate firms, for such purposes as reorganizing entities such as business locations or departments, preserving the organizational hierarchy, or developing new businesses. As a result, the scope of the labor markets in Japanese firms was expanded from the internal markets within the firm to quasi-internal labor markets which cover entire corporate groups, including subsidiaries. This paper will start in Section II by providing an overview of the historical background to this.

Yashiro (2002) notes that the labor market is divided into three categories: the internal labor markets within firms, which are defined by long-term relationships, the external labor market, which is defined by supply and demand mechanisms, and quasi-internal labor markets, which are a cross between the internal labor markets and the external labor market. Table 1 lists the characteristics of each of these three categories.

There are two main challenges which firms must tackle when utilizing quasi-internal labor markets. Firstly, firms need to gather and analyze the necessary human resources information to match the right employees to the right jobs. Secondly, they need to establish mechanisms for achieving smooth transfers, such as mechanisms for conducting the necessary retraining for internal human resources and for providing ongoing support for employees who are transferred. Sections III and IV of this paper will look at how Japanese firms have tackled such issues, as well as the reasons why such methods have been possible.<sup>1</sup>

There is a strong possibility that the future will see even greater changes in management environments, and there is already a significant trend among Japanese firms toward business restructuring. There is a growing argument that Japanese firms need to not only reorganize and downsize through the “selection and concentration of business areas,” but also pursue growth by developing new businesses. At the same time, a number of Japanese firms are trying to utilize internal resources as they develop such new projects. On this note, Section V of this paper will review how quasi-internal labor markets may change along with new business developments in the future. Section VI will conclude by looking at the issues to be addressed in the future.

## **II. The Practice of Lifetime Employment and the Development of Quasi-Internal Labor Markets**

### **1. The Development of Internal Labor Markets in Japanese Firms**

It has been noted that Japanese firms have increased the flexibility of their organizations by transferring employees between different organizational units, such as business locations and firms, and such transfers have acted as an advantage which has assisted firms in their growth. However, in recent years transfers between organizational units have had the reverse effects of obstructing firms from developing results-oriented approaches or from responding to the competitive global environment. It is therefore also argued that reforms should be made to clarify the work parameters of each individual employee. If Japanese firms pursue such reforms, it will become difficult for them to transfer employees between organizational units, which would in turn decrease the flexibility of their organizations and

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<sup>1</sup> In this paper, the results of interviews conducted by the author over 13 occasions at a total of 10 firms during the periods 1995–1996, 2000–2002, and 2008–2009 were used where relevant. The firms interviewed represent a number of different industries, including both manufacturing and non-manufacturing industries, but according to the agreements made with the firms interviewed, details of the specific industries are not given. As the dates, interviewed firms, and purposes of these surveys differ slightly, it is not possible to conduct a simple comparative analysis. Moreover, as the number of firms interviewed is limited, it is not possible at present to make generalizations and develop arguments based on the survey results. In order to do so, it would be necessary to conduct surveys such as questionnaire surveys. However, considering the difficulties of oral surveys on the topic of temporary and permanent transfers, it is surely worthwhile to pursue discussion based on the content of the interviews conducted.

mean that they would lose the advantage that they have held up until now. However, it is also conceivable that a new method will create an alternative advantage. As they face such conflicting arguments, what approaches should Japanese firms adopt in the future?

First of all, we need to establish how Japanese firms have dealt with this problem up until now. It is necessary to look at the practices which have established themselves in Japan over a long period of time and how the changes in the environment surrounding them have been involved. This is because the state of human resources management is formed as a reflection of both the economic environment and the social context of the moment, and also forms a reflection of public opinion. Such factors need to be addressed because while there is demand for reform of human resources management, it would be extremely problematic to make reforms which ignore the contexts against which human resources approaches were developed in the past.

As the topic of this paper is personnel transfers between organizational units, let us start with a brief overview of their history.

In what manner did personnel relocation appear in Japanese firms in the post-war period, and against what kind of background did it come to be accepted? Yoshida (2012) investigates the answers to these questions on the basis of historical materials which reveal the process by which personnel relocation became established as a practice at Nissan Motor during the firm's managerial crisis shortly after the war.

In the post-war period, Nissan Motor was facing the difficulties of corporate divestiture due to the US occupational policy, a shortage of materials, and financial difficulties. Even the continued existence of the firm was at risk, to the extent that the firm was unsure whether or not it would be able to continue paying employees' wages. In 1947, the president of Nissan Motor responded by introducing a policy to reconstruct the firm, which included personnel relocation.<sup>2</sup>

Preparations for personnel relocation were also approved by the labor union. The labor union held the opinion that personnel relocation should be conducted promptly to reform the organization and its production systems and reveal surplus human resources and surplus facilities, allowing the firm to survive by transforming these surpluses into new business.<sup>3</sup> The labor union also considered educating union members of the necessity of personnel relocation from the perspective of reconstructing the firm.

As the case of Nissan Motor suggests, firms which suffered managerial crises in the

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<sup>2</sup> In this case, "personnel relocation" does not only refer to job transfers of employees but is used in the broad sense of the meaning, which also includes the reorganization and consolidation of work in factories.

<sup>3</sup> Yoshida (2012) offers the hypothesis that personnel relocation aimed at protecting jobs in the post-war period was a strategy proposed by the labor unions in the post-war period. He suggests that the aim of the labor unions was to make personnel relocation a personnel management measure which would act as an alternative to dismissals for restructuring, by applying personnel relocations involving significant changes—which had previously only been applied to white-collar employees—to all workers.



immediate post-war period chose to respond to these crises by using personnel relocation to avoid making dismissals when restructuring and to protect employees' jobs, while at the same time streamlining their organizations to improve productivity and diverting surplus resources to new business projects. The origins of the method of utilizing existing internal resources for the development of new projects can therefore be traced back to the post-war period.

## 2. The Formation and Development of Quasi-Internal Labor Markets

As Japanese firms—mainly those in the manufacturing industry—subsequently developed their businesses, they began to invest in and provide management direction and operational support to firms with which they already had close business relationships. Firms also diversified as a result of developing business from by-products created in the process of pursuing business projects, and as firms diversified, employees would be transferred beyond the framework of a certain firm. This was the origin of the practice of temporary transfers (*shukko*) and permanent transfers (*tenseki*) of employees to different firms. Temporary and permanent transfers were first adopted by firms in the 1950s, and became established systems in many major firms in the 1960s.

However, as Japan entered the period of low economic growth following the oil crisis of the 1970s, it became difficult for firms to preserve their organizational hierarchies which were based on job security and seniority-based promotion. Furthermore, under employment practices fundamentally based on lifetime employment and seniority-based promotion, there were few cases of mid-career employment opportunities for workers and the situation made it extremely difficult for workers to actively switch careers with the aim of experiencing new work. It was also highly difficult for firms to conduct dismissals to restructure on the grounds that their business performance had temporarily deteriorated. Japan's major firms therefore requested subsidiaries with which they had capital relationships to cooperate with transfers, and these subsidiaries accepted the transfers. As a result, temporary and permanent transfers helped to increase the possibility of protecting employees' jobs by expanding the scope of transfer destinations to include group firms.<sup>4</sup> Prior to this firms had already been transferring employees to group firms to act as management executives, but what was distinctive in this period was that firms began to also transfer non-managerial employees. The result was the establishment of quasi-internal labor markets in which transfers transcended the internal markets within firms.

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<sup>4</sup> The scope of a quasi-internal labor market is assumed to be the corporate group. The firms which make up the corporate group are parent firms, which are also shareholders in other firms and have the role of guiding the operations of the corporate group; subsidiaries, for which the majority of the voting privilege is owned by the parent firm and which have their financial affairs and business policies controlled, and affiliated firms, in which the parent firm has a controlling share of between 20% or more and 50% or less. This paper uses the term "group firms" as a collective term which refers to both subsidiaries and affiliated firms to which employees are temporarily or permanently transferred.

In the 1980s, the technological innovations in the field of microelectronics sparked a surge in the development of new business projects. As firms pursued these developments by creating new subsidiaries,<sup>5</sup> rather than by establishing new organizations within existing firms, the necessary personnel were temporarily or permanently transferred to subsidiaries. The amount of temporary and permanent transfers within corporate groups also further increased due to the more prominent presence of middle-aged and older employees and the establishment of systems to raise the retirement age and systems to introduce a mandatory retirement age for executives (Inagami 2003). This was due to the thinking that although new businesses are accompanied by risk, they are also significant opportunities to allow a firm to grow, and achieving growth would allow firms to protect the jobs of middle-aged and older employees at the same time. Moreover, as it is easy to ascertain shifts in employee numbers due to the practice of lifetime employment and the mandatory retirement age system, it was also possible for firms to make decisions regarding personnel on a case-by-case basis. This had the effect of guiding firms in a direction which made it easier for them to guarantee job security across entire corporate groups.

On entering the 1990s, large numbers of permanent transfers were conducted due to the transfer of business projects or division of business projects into separate firms. At the same time, there was also an increase in temporary transfers of skilled workers and young workers involved in work-site operations. These workers were expected to engage in and complete a particular task during their temporary transfer period. There were in fact cases in which the firms to which such workers were temporarily transferred highly praised the results of such workers, encouraging firms to further increase the number of temporary transfers of young skilled workers (Dan 2001). There was also a noticeable increase in temporary transfers of managerial personnel in the early stages of their career. Some firms also introduced reverse temporary transfers, in which employees from group firms are transferred to the parent firm (Inagami 2003; Dan 2004). The 1990s also saw the introduction of systems under which the timing at which employees are temporarily or permanently transferred is decided according to their managerial rank (Inagami 2003).<sup>6</sup>

In this period it also began to be noted that methods which made group firms assume the burden of the costs were beginning to reach their limits. This led to the appearance of the concept of “group management.” Under this concept, firms aim to maximize the results of their corporate group as a whole, and apply a group-oriented perspective to reviewing the resources which their corporate groups have accumulated over the years through patch-up measures adopted in the process of responding to changes in the business environment. Group management became a definitive trend from the fiscal year ending March 2000,

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<sup>5</sup> Itami (1986) calls these “external ventures,” and states that the aim of firms in establishing such ventures as separate firms was avoiding contamination from within the firm.

<sup>6</sup> Temporary and permanent transfers of managerial personnel are conducted to avoid the stagnation of personnel management. Inagami notes that the grounds for this are that managerial promotions have acted as the most basic incentive for performance over the years.

when the system of consolidated accounting was formally introduced.

Along with the transition to group management, Japanese firms became conscious of the business results of their corporate groups as whole, and it became necessary for them to adapt their management approaches accordingly. For example, firms formulated strategies for their entire corporate groups, and reviewed the status of group firms in accordance with those strategies, in some cases conducting reorganization and consolidation of group firms, and even taking into consideration the acquisition of the businesses of other firms. These trends began to attract attention particularly from the mid-2000s, and were referred to as the “selection and concentration of business areas.” The trends of selection and concentration also affected temporary and permanent transfers. While firms tend to be proactive in transferring employees to firms which are thought to be playing an important role in pushing forward the strategies of the group and pursuing business ventures, they are less active in transferring employees to other group firms (Dan 2009, 2010).

Moreover, the development of this trend was accelerated by the fact that the organizational restructuring of corporate groups was facilitated by the development of legislative systems and accounting systems which allowed Japanese firms to pursue the selection and concentration of business areas—such as consolidated tax payment systems, share exchange systems, corporate divestiture systems, and the deregulation of pure holding companies (Dan 2002).

As demonstrated above, reviewing the process by which the practices of temporary and permanent transfers became established demonstrates that over the years Japanese firms have utilized temporary and permanent transfers in order to take a proactive approach to developing new businesses while adjusting employment but at the same time keeping to their fundamental premise of protecting employees’ jobs.<sup>7</sup> The reason why Japanese firms did not adopt the method of flexibly utilizing external resources—the method commonly adopted in Europe and United States—and chose to utilize existing internal resources, was that developments in the past had made protecting employees’ jobs an essential element of human resources management. In particular, given that employment practices founded on lifetime employment and seniority-based wage systems are social norms in Japan, there are few opportunities for mid-career employment for workers, and it is extremely difficult to actively switch careers in order to experience new work. It was also very difficult for firms to dismiss employees for the purpose of corporate reorganization on the grounds that business performance had temporarily deteriorated. Given that the external labor market in Japan is not functioning sufficiently, quasi-internal labor markets have an important role to play.

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<sup>7</sup> In concluding his historical analysis of the practice of temporary and permanent transfers, Inagami (2003) states: “The practices of temporary and permanent transfers have over the years seen the repetition of the elements of “attacking,” in responding to new business developments, and “protecting,” in preserving employees’ jobs while adjusting employment.”

### **III. The Gathering and Analysis of Human Resources Information**

#### **1. The Advantages of Quasi-Internal Labor Markets**

When utilizing existing internal resources in the development of new business projects, firms face the challenge of matching the right human resources to the right jobs. Even if the conditions for conducting flexible transfers are in place, if it is not possible for firms to gather and analyze information regarding the work and human resources available within their firms or corporate groups, it becomes difficult for them to carry out transfers effectively and expeditiously.

The state of a labor market defines the flow of information regarding work and people. Temporary and permanent transfers, which are seen as the quasi-internal labor market, have the following advantages when it comes to gathering the necessary information (Dan 2006).

Firstly, through the involvement of the firm from which the employee is temporarily or permanently transferred, there is a high possibility that a significant amount of information will be conveyed to the firm to which the employee is being temporarily or permanently transferred. This information consists of the content of the current work of and the career up until now of the employee being transferred, and the content of the work and work conditions at the firm to which they are being transferred. Moreover, in the event that the employee is being transferred to a group firm with which their current firm has close business relations, the way in which the organization is managed and other such information which was gleaned through the experience of working together is also included in the information available.

Secondly, as firms participate in gathering the job-vacancy information, it is very likely that more job-vacancy information will be obtained than would be obtained if individual employees were looking for a suitable job themselves. Particularly in the case of job-vacancy information within the corporate group, it is possible for parent firms to obtain job-vacancy information easily, because they are directly involved in personnel management.

#### **2. The Gathering and Accumulation of Information in Human Resources Departments**

In Japanese firms, human resources departments have adopted the task of gathering information in order to work across the corporate group as a whole to achieve the optimal use of human resources across the group. Human resources departments in Japan are characterized by the fact that they participate directly in organizing personnel relocations. This is significantly different from the human resources departments of firms in the United States, where the role of human resources departments is to make various improvements to the system to support the human resources decisions behind matters such as personnel relocations, rather than playing a direct role in those decisions (Hirano 2011).

In firms in Europe and the United States, the work duties assigned to each employee

are clearly defined and it is assumed that employees who are assigned a certain job have the ability to pursue that job. Transfers are also generally conducted according to an internal open recruitment system, by which employees who wish to be transferred actively submit applications themselves. Moreover, if the job itself ceases to exist within the firm, in many cases the employment relationship also ceases to exist.

In contrast, Japanese firms have adopted grading systems based on work-related abilities and performance—or “ability-based grade systems”—for the personnel management systems which they use to define the treatment of employees on the basis of ranks. These ability-based grade systems rank employees on the basis of their work performance and their potential, and are not always based on the assumption that employees will only pursue work within a predefined scope. Moreover, changing jobs does not automatically lead to a change in wage. As a result, it is possible for firms to flexibly transfer employees to different jobs with the aim of protecting jobs and allowing employees to develop their abilities.

Japanese firms have established lifetime employment as a norm and based their human resources practices on ambiguous divisions of work duties under which the scope of employees’ jobs are not predefined. They therefore place emphasis on the importance of employees developing job skills which are specific to the firm, rather than focusing on the general vocational skills of individual employees. In the case of university graduate white-collar employees, particularly those in clerical roles, if an employee remains in their first place of work they will see their skills development hit a brick wall within a few years. In order for them to develop their skills, it is necessary for them to engage in more advanced work at different workplaces. Transfers have come to be recognized as being practically essential for expanding the scope of the work and experience of university graduate white-collar employees. In order for such employees to increase their occupational skills by building up extensive work experience, their work experiences need to be mutually related, and be seamlessly incorporated in their new jobs (Hisamoto 2008). “Ability-based grade systems” were devised to support the development of human resources in this way.

Under ability-based grade systems, there are many cases of transfers which transcend the scope of responsibility of the employee’s department or firm. As it is necessary for such cases to be decided from the perspective of what is optimal for the group as a whole, human resources departments came to hold central authority over personnel management matters. The human resources departments consult and negotiate on human resources matters regarding individual employees with the line managers responsible for the employee concerned using “sticky” human resources information—that is, qualitative information about an employee’s characteristics, which is difficult to acquire because it is only available from the employee themselves or from evaluations by their colleagues—as their source of power. Human resources departments contribute to the reform of workplaces by flexibly transcending the boundaries of departments or firms to search for, select, allocate, and train the right employees (Hirano 2011).

Such characteristics are also similarly apparent in temporary and permanent transfers

within corporate groups. For example, the selection of employees to be temporarily or permanently transferred is conducted in the following ways (Dan 2001, 2004, 2009).

- Usually the human resources sections of each business division and factory and the human resources sections of the related firms each coordinate with the line of command for the employee and work out the conditions and other items through consultations. This applies not only to executives but also to non-managerial workers.
- When the information regarding a job vacancy comes, first of all each of the superiors consult together over whether or not the employee is suited to the work. The human resources department then gets involved and works out the conditions. As the human resources department has ascertained the thoughts of the employee concerned, almost all of transfer offers are accepted by employees. In the case that the employee elects not to be transferred, the reselection of candidates is started immediately. As the human resources department has obtained information regarding the thoughts of the employee through routine conversations, and uses this as reference, there are no cases in which the employee is instructed to transfer out of the blue.
- The firm's head office does not give instructions involving all exchanges of human resources, but it does ensure that it is able to ascertain the figures regarding how much human resources exchange is actually being conducted.
- The criteria for selecting the management executives of subsidiaries are not laid out in a clear-cut form, but when reselecting executives, the human resources department of the subsidiary makes inquiries to each affiliated firm regarding what should be done on that occasion regarding management personnel, receives a proposal from each affiliated firm, and makes the decision on the basis of these proposals and consultation with the parent firm.
- The authority to decide on who will be transferred and where they will be transferred to lies with the department to which the employee belongs, and the main department and managerial departments of the business. In the case of executives, the human resources department does not have such a strong authority over decisions as the selection of transferees is carried out in consultation with affiliated firms. However, transfers regarding educational training and middle-aged and older employees are generally decided through negotiation, although there may be cases in which strong measures are taken. Up until now, in many cases the human resources department has taken the lead in such consultations, but the trend is shifting such that the firm or department responsible for the business takes responsibility.

As demonstrated above, when conducting transfers the human resources departments of firm head offices try to ensure that they also obtain information from group firms on whether or not the employee can adapt to the firm to which they may be temporarily or permanently transferred. This extends the scope of transfer for temporary or permanent transfers to the corporate group, but in such cases the circumstances of the group firms must also be taken into account when conducting transfers. This is because group firms are es-

entially independent firms with no official authority relationship, and, as under group management it is necessary to optimize the results of the group as a whole, they are expected to contribute to optimizing the results of the group by producing results through their own efforts.

The parent firm therefore needs to have information about the employee being transferred, their current work and career until the present, and about the recruitment information within the group. As in the case of transfers within the firm, the human resources department of the parent firm is therefore also responsible for gathering information regarding work and human resources for conducting transfers within the group. By accumulating experience of matching human resources with work, the human resources departments of parent firms have contributed to conducting smooth permanent and temporary transfers.

### 3. Addressing the Needs of Group Firms and Employees

In order to move employees within the corporate group, it is necessary to first consider what kind of human resources should be moved to where within the corporate group. In the case of conventional temporary and permanent transfers within corporate groups, there was a strong tendency for firms to first start looking for transfer destinations when it became necessary to send people out of the parent firm due to a surplus of personnel.

However, in recent years there have been an increasing number of cases in which the human resources needs of each group firm and the wishes of the employee being transferred are also taken into consideration with greater sensitivity when temporary and permanent transfers are made.

Firstly, there are an increasing number of cases in which group firms present requirements which they are looking for temporary or permanent transferees to fulfil, such as the employee's abilities and the content of the work they have pursued up until that time. For example, firms adopt methods such as gathering the presidents of group firms to hear their requests, or establishing an organization which acts as an intermediary for transfers which transcend business lines (Dan 2009). Moreover, regarding posts at section manager level or above, there are also cases in which managerial-level employees have the opportunity to propose successors or present personnel relocation plans (Dan 2010). These methods are aimed at raising the cost-effectiveness of searching for information by restricting the number of possible candidates and thereby reducing the amount of information that needs to be handled.

Moreover, there are also cases in which systems have been established to allow individual employees to announce their wish to be transferred, such as voluntary application systems or open recruitment systems which are open to all employees of the corporate group. The aims of such systems are to increase the satisfaction of employees by expanding the opportunities for the employees themselves to be involved in job allocation, to discover talented employees, and to cultivate organizational climates which encourage employees to take challenges. Namely, these systems are aimed at preventing the motivation of employ-

ees from decreasing by reflecting the wishes of individual employees as far as possible, and can be seen as a trend toward expanding systems which have been developed as part of internal firm transfers and applying them to group firms.<sup>8</sup>

#### **IV. Systems for Achieving Smooth Transfers**

##### **1. Transfers to New Occupations and Retraining**

Up until now, Japanese firms have focused on branching out into fields in which they have already accumulated know-how to a certain extent. In the manufacturing industry, firms firstly pursued new businesses using byproducts produced in downstream processes and manufacturing. This was followed by a trend in major firms of converting services that had been provided within the firm or group into businesses with the aim of selling them externally.

When entering into new businesses, it is necessary for firms to secure the human resources needed to engage in that business. Firms have two methods with which to do this: hire new employees from outside, or relocate personnel internally. As previously described, as major firms in Japan have adopted the practice of lifetime employment and thereby made protecting employees' jobs an essential element of human resources management, they have generally fulfilled the needs of new business development by relocating personnel from within the firm and providing retraining for those personnel. These firms have worked on the concept that if the necessary transfers for new businesses can be arranged within the corporate group, there is no problem. The new businesses have also at times played a role in protecting jobs in periods of economic recession.

In such cases, the training given to transferees at the firm from which they are being transferred consists of their closest superior providing them with advice as necessary. Special training is rarely provided, and emphasis is placed on the ability of transferees to adapt flexibly to the new corporate climate and organizational culture of the firm which they are temporarily or permanently transferred to. Temporary and permanent transfers in particular are often dealt with on a case-by-case basis, rather than according to a certain system, and are conducted on the basis of consideration of the employee's compatibility with the firm to which they will be temporarily or permanently transferred, and careful and repeated consultation.

However, what becomes problematic in such cases is the question of how to provide employees with the know-how they need to pursue their new work. If employees are able to utilize the abilities that they have developed in their previous work, there may be relatively less problems accompanying transfers. However, the less a new business is related to their previous field of experience, the less know-how employees will have. Let us look at how

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<sup>8</sup> Shimanuki (2010) demonstrates that the provision of information and the reflection of the employee's wishes by the human resources department are raising the level of satisfaction regarding temporary and permanent transfers.



Japanese firms have dealt with this when approaching business fields in which they have limited know-how.

Ito (2001) demonstrates how a number of major electronics manufacturers responded to these problems when making changes to their organizations as they branched out into IT-related business projects in around the year 2000. His study includes details of the actual circumstances of the personnel relocation which arose as a result of such developments and the education and training which was subsequently required.<sup>9</sup>

In new growth areas related to IT, firms first attempt to pursue business development by relocating the newly required personnel from the most closely related field within the firm. However, as there is a poor accumulation of technique and skills within the firm, they attempt to compensate for the lack in human resources through the mid-career recruitment of personnel who are immediately able to contribute to such projects, or “industry-ready personnel.” At the same time, as the market for human resources which are newly required in emerging growth areas is a sellers’ market in which supply is not keeping up with demand, mid-career recruitment of industry-ready personnel is considerably difficult for firms.

As Japanese firms also continue to recruit inexperienced workers, creating to a certain extent a foundation of internal human resources for new projects, the growing supply-demand crisis regarding industry-ready personnel also accelerates personnel relocation through reeducation and training. At major electronics manufacturers, the labor-management relationship is such that efforts are made to protect job opportunities, and, in addition to the recruitment of industry-ready mid-career employees and inexperienced employees, firms began to actively provide education and training and transfers to shift internal human resources to new fields of development.

For example, when major electronics manufacturers responded to decreases in the profit margins of their hardware-related businesses by pursuing development in solutions businesses and concentrating business resources in their software and services divisions, they adopted this process in order to procure human resources (Ito 2001).

As demonstrated above, when pursuing diversification into business in which they have limited know-how, Japanese firms have conducted personnel relocation and retraining to utilize internal human resources as the main source of the human resources they require for developing their business.

## 2. Ongoing Support

When an employee is transferred, the content of their work and their personal relationships with work colleagues are also changed at the same time. It is therefore essential to provide employees with ongoing support in order to maintain their motivation in the long term. Japanese firms have also provided such support in the case of temporary and perma-

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<sup>9</sup> Regarding this problem, Nagano (1989) has also conducted detailed case analysis regarding expansion by infrastructure firms into family restaurant businesses and frozen food product businesses.

nent transfers.

As described earlier in this paper, the origins of such approaches can be traced back to the way in which firms handled personnel relocation in the immediate post-war period. Yoshida (2012) notes that regular union members recognized personnel relocation as an issue of critical importance and that easily accepting personnel relocation could become tantamount to dismissal, and made demands for personnel relocation to be handled more carefully and controlled by regulations.

Moreover, Umezaki (2010) reviews cases of transfers between workplaces, namely personnel relocations, which occurred in the 1960s and analyzes the process by which internal labor markets which were formerly limited to within certain workplaces were expanded to include other workplaces, and how personnel measures were developed to appeal to the wishes of the workers involved. At the time, blue collar workers, who were generally hired directly by their workplace, had significant psychological resistance to transfers beyond the same workplace, even in cases of personnel relocation. In order to mitigate such resistance, compensation for income reduction was provided for workers whose income decreased as a result of a transfer. Moreover, firms also pursued measures such as creating observation teams to actually visit the new workplaces of transferred workers and enlisting workers who had already been transferred to convince other workers.

Such efforts manifested themselves in ongoing support measures for temporary and permanent transferees, in the form of wage guarantees at the time of temporary transfers, transfers with a view to permanent transfers, and social gatherings and hearing sessions with transferred employees. It could be said that these initiatives are the outcome of long-term efforts by Japanese firms to relieve the psychological resistance of employees at the time of transfers.

## **V. Future Issues concerning New Business Development and Quasi-Internal Labor Markets**

### **1. New Business Developments and Shortages of Human Resources in Japanese Firms in Recent Years**

It is the efforts of firms to enter into new businesses and their accompanying diversification which established the foundations of the Japanese economy in the pre-war period and also supported the recovery of Japan in the post-war period. The majority of major Japanese firms are diversified firms which engage concurrently in a number of different businesses, and it can be said that the Japanese economy has been supported by the growth of diversified firms (Ueno 2011).

As described so far in this paper, Japanese firms have prioritized the utilization of internal human resources when entering into new business projects. In order to do this, it is necessary for firms to transfer human resources between departments and even between firms within their corporate groups. Japanese firms have successfully developed means of

conducting such transfers smoothly by devising human resources measures such as retraining and ongoing support.

However, the collapse of the economic bubble at the beginning of the 1990s was followed by a long period of economic stagnation, which has exposed Japanese firms to severe economic conditions. In such circumstances, Japanese firms have pursued the “selection and concentration of business areas.” As for whether or not such reforms are actually effective, unfortunately, no benefits have actually been gained. A phenomenon is occurring by which firms are distracted by short-term profits and forget to make investments which lead to long-term results (Ueno 2011).

When firms seek short-term results in management, they have less incentive to engage in businesses which involve a time lag until research is developed and benefits become apparent. A mid-to-long term perspective is required as a basis for making ongoing investments to develop such businesses, and if the expectations of firms are overly focused on short-term results, there is the possibility that investments in such fields will be inhibited (Ministry of Economy, Trade and Industry 2011). New business development is a high risk strategy, which conflicts with the strategy of selection and concentration, but if a firm opts to avoid those risks and instead pursue rash selection and concentration, the capacity for the firm as a whole to grow will decrease and it will be burdened with an even greater risk (Ueno 2011).

In Japan, there were formerly many cases in which venture firms and new projects with high capacity for growth were created from existing firms. One of the reasons for this is thought to be that major firms have significant numbers of talented employees due to their relationship with the recruitment market up until now. In order to create new businesses, highly-capable human resources need to be reassigned to the new business areas, and it can be said that the systems of transfers in Japanese firms have created the conditions for such reassignments to be carried out smoothly and easily.

For example, in a case study of Canon’s commercialization of display technology, Harryson (2006) explains that Canon’s success in achieving disruptive technological innovation can be attributed to their know-who based approach, under which they place importance on knowing *who* possesses the know-how necessary for such innovations. Harryson also demonstrates that the frequent transfers of employees within the firm supported that success.<sup>10</sup>

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<sup>10</sup> At Canon, the transfer of explicit and tacit knowledge from the stage of ideas at the invention level to the stage of innovative production processes was possible through the fairly seamless transfer of technicians from the creative network to the project network. Moreover, by transferring a large portion of these team members directly to the production location, it was possible in effect to avoid leaving all of the necessary capability isolated in the higher-level research facilities, but effectively incorporate them into the production process. Such transfers were facilitated by the fact that the majority of the internal researchers and technicians had experienced such transfers in the past. Through frequent division transfers, the employees had the feeling of belonging to the firm as whole, as opposed to belonging to a certain division or location. As a result, employees did not object to transfers,

As this example suggests, it is important to recognize that not only venture firms, but also existing firms play key roles in innovation in Japan. However, new business developments—in particular the establishment of ventures in existing businesses—peaked in the year 2000 and have been decreasing since, and there is a number of examples among major firms of internal ventures being established through internal open recruitment but not achieving success. There is concern that seasoned existing firms place an emphasis on maintaining existing businesses and their capacity to pursue innovation and take the risk of creating new businesses is decreasing (Ministry of Economy, Trade and Industry 2011).

This suggests the possibility that there is a lack of human resources who can drive the creation of innovation. Regarding this possibility, the Ministry of Economy, Trade and Industry (2012) notes that there is a number of Japanese firms which are currently not pursuing the training or development of the human resources required to take the lead in creating such new businesses, or alternatively which have pursued such training or development but acknowledge that they have not achieved the expected results. The reasons that firms have given for this include: “a lack of know-how regarding human resources training or development” (42.9%), “restrictions to the time and budget which can be dedicated to human resources training or development” (32.7%), and “the fact that it is not possible for the firm alone to provide sufficient human resources training or development” (29.4%). These situations which firms are currently facing are thought to have arisen from the fact that human resources training and development opportunities have declined due to excessive selection and concentration of business areas. There are therefore many firms which utilize human resources introduction services as an alternative means of finding human resources. However, at present the human resources who can actually be introduced to such firms are still limited in comparison to the increasing needs (Ministry of Economy, Trade and Industry 2011).

Moreover, 27.5% of the firms surveyed are interested in corporate venturing using internal management resources as a means of developing new businesses. Of this 27.5%, 62.1% are attempting to pursue such venturing by “starting designated types of businesses” and 59.5% are attempting to “establish internal ventures” (Ministry of Economy, Trade and Industry 2011).

For the above reasons, it can be said that it is all the more necessary for Japanese firms to approach future developments by internally training, developing, and utilizing human resources to take the lead in new business ventures.

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but saw them as a necessary action to bring about innovation. Harryson concludes that this was the most significant factor which allowed Canon to succeed in the commercialization of such destructive technology which firms in Europe and the United States invented but were unable to develop into a product (Harryson 2006).

## 2. The Effects of Organizational Restructuring of the Corporate Group on the Gathering and Analysis of Human Resources Information

Among the organizational restructuring pursued by corporate groups in recent years, attention has been focused on switching to group structures based around a pure holding company. Unlike groups with a business holding company, in which the parent company also conducts business activities, in groups with a pure holding company there is a clear division between the pure holding company, which conducts the unification of the group as a whole, and the business firms, which conduct the business operations. For this reason, the independence of each business increases, and it is also possible to change systems of treatment for employees for each firm flexibly. Moreover, as all of the group firms are for form's sake equal under the holding firm, this system is also expected to eliminate the conventional perceptions that there are hierarchies or superiority rankings among firms.

However, while such merits exist, it has also become evident that problems are also arising. One of these problems is that in the event that systems concerning employee treatment have been changed in each group firm in order to reflect the differences in wage rates in each type of industry, it is possible that it will become difficult to conduct temporary or permanent transfers between group firms.

Moreover, due to the fact that in recent years the human resources departments of firm head offices have become the target for management reform, and the numbers of personnel allocated to such departments have been decreased (Yamashita 2008), it is feared that firms will have difficulty gathering information on work and human resources at the same level as they were able to do so before. In fact, human resources departments do not keep track of information regarding all employees who are temporarily or permanently transferred. For example, the human resources department is aware of the number of employees being transferred and where they are transferred to in cases where existing internal organizations are divided into separate firms, but in the case of other group firms, such as firms which are added to the group through acquisitions, the human resources department may not have such data regarding human resources. There are also cases in which human resources departments in effect hardly keep track of data at all after employment relationships end due to permanent transfers (Dan 2009).

Such developments definitely lead to the economization of information costs and contribute to increasing efficiency. However, it is also suggested that such developments may have the reverse effect of decreasing the ability of firms to gather and analyze human resources information, and that from the point of view of optimization of the group as whole, Japanese firms may no longer be able to enjoy the advantage of being able to flexibly transfer employees beyond the limits of each firm. There is great interest in how this trend will develop in the future.<sup>11</sup>

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<sup>11</sup> This may cause problems as firms attempt to create innovation in new projects. This is due to the fact that the decreased capacity of internal networks generates confusion in organizations which

## VI. Conclusion

In Japan, everything starts with human resources—human resources create tasks, and draw inspiration from the outcomes of these tasks to create new strategies. In other words, Japan is strongly focused on “emergent strategy” (Hirano 2011). The diversification strategies of Japanese firms have developed in the very same way. The personnel transfers in Japanese firms started out as a means of preventing dismissals when firms needed to restructure, but as lifetime employment became increasingly established as the norm, transfers came to serve as a means of maintaining the incentive for employees to improve their performance in the long term. Japanese firms have adopted this approach to transferring personnel and produced successful results when pursuing diversification through the development of new businesses.

Moreover, through personnel relocation and transfers such as temporary and permanent transfers, Japanese firms have formed networks in order to consider what kinds of resources are where, and these networks have led to innovation. The human resources information necessary for this has been gathered and utilized by the human resources departments. Furthermore, it can also be said that in the process of establishing management centered on their head offices, firms have successfully developed methods of taking into consideration the motivation of employees. Looking at the development of transfers over the years, the method adopted in Japan can be said to be considerably time and labor-consuming, but firms have consistently upheld the stance of procuring the available resources internally as far as possible and this has generated progress.

It is not clear at this point whether or not such a method will continue to work in the future, but it is not realistic to expect firms to completely abandon the stockpiles of human resources management which they have built up over the years and search for new approaches. The development of Japanese firms up until now has been possible because firms were able to make the accumulation of such resources an advantage. There are of course many arguments suggesting that in the future there will need to be more flexibility in the handling of human resources. However, as the system of human resources management is entrenched in the institutionalized systems and social contexts of the country as a whole, drastic changes are unlikely to occur unless Japan is shocked by a firm with significant influence suddenly changing its system, and any changes are expected come about gradually (Ahmadjian and Robinson 2001). It is therefore necessary for firms to look for a means of utilizing the advantage that they have created in effectively utilizing their existing resources.

Japan’s quasi-internal labor markets contain abundant stockpiles of human resources and know-how on how to utilize such resources. It can be said that Japanese firms, which recognize creating new businesses as a task to be addressed in the mid-to-long term future,

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are trying to discard old knowledge and create new knowledge, and the isolation of functions and loss of the capacity to form networks decreases the opportunities to transform knowledge into innovation (Harryson 2006).

are coming to a point where they need to investigate means of effectively utilizing their rich human resources. It is necessary for firms to conduct internal stock-takes and inspections of the human resources in their corporate groups as a whole as they consider the steps which need to be taken in the future.

However, it is also quite possible that Japanese firms will drastically rearrange their business projects in the process of pursuing growth strategies in the future. In his investigation of the business aspects of firms which have succeeded in changing their field of business, Mishina (2007) states that the only option that firms have for exceeding the lifespan of their field of business and continuing to survive is to successfully change their field of business. Among such firms, there are examples of firms which succeeded in changing to fields of business which are far removed from their traditional field. An important task for future research is to reveal what kinds of approaches these firms have adopted in terms of human resources management—for example, how they conducted transfers and the accompanying retraining—and to what extent such methods were effective.

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# Labor Mobility and Employment Policy

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This paper discusses issues of employment policy based on the viewpoint that the labor market should be made more flexible, in order to halt the polarization of regular and non-regular employees and to achieve labor mobility to growth industries without problems of unemployment. To this end, the author will trace the evolution of employment policy concerning the organization of the labor market. Taking the harsh employment environment after World War II as a starting point, it will be shown that efforts to tackle immediate issues could be said to have developed into a basic system, and that the external labor market was insufficiently developed due to improvements in the employment environment caused by corporate labor demand in the period of high-level economic growth. As Japanese-style employment practices became established, fluidity between the internal labor market comprising regular employees and the external labor market comprising non-regular employees was impaired. As a result, even at the stage of employment adjustment by companies, there was no alternative but to choose policies that supported the maintenance of employment by companies rather than supporting labor mobility. In this sense, the task at hand is to improve the current working format of unrestricted regular employees, or in other words, to reform regular employment. Future employment policy should include measures such as supporting the introduction of restricted regular employment systems and making use of agency business by increasing the flexibility of worker dispatch systems.

## I. Introduction: Locating the Problem

Currently, achieving a labor market that can respond with smooth labor mobility without causing unemployment has been highlighted as a policy task within the growth strategy of the Abe administration. Meanwhile, a report by the Council for Regulatory Reform Employment Working Group (May 14, 2013) advocates “human mobility,” as a major target of employment reform, to encourage people who have hope and make positive movements of their own volition.<sup>1</sup> This idea is premised upon the perception that Japan’s current labor market lacks the flexibility to achieve the necessary labor mobility. Certainly, the current employment situation is polarized between regular employees who are forced into unrestricted working formats (including long working hours) in return for stability of employment, and non-regular employees who have difficulty in achieving economic independence and also have dim prospects for the future. An important task in employment policy will be to overcome this situation through suitable labor mobility.

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<sup>1</sup> Although the author is also a member of the Employment Working Group, it should be stressed that the opinions expressed here are purely personal ones. Meanwhile, many studies have already been conducted on the issues in this paper, but citations will be kept to a minimum.

The stated purpose of employment policy in the first place is to promote a balance between labor supply and demand by appropriately manifesting the functions of the labor market, and to enable workers to make effective use of their abilities. This will create employment security for workers and improve their socio-economic status, as well as contributing to economic and social development and the achievement of full employment (Article 1 of the Employment Measures Act). But the current situation is far removed from full employment. Indeed, many of today's non-regular employees are close to the state of underemployment once targeted as an issue to be overcome by employment policy after World War II. Although underemployment was eliminated amid high-level economic growth during this period, the expansion of growth industries with large employment absorption capacity is less in evidence today. As such, providing employment security for non-regular employees can only be seen as a more difficult task than it was in those days. Problems of youth employment were surely not discussed so seriously back then. A new employment policy befitting the present situation needs to be developed.

The task of this paper is to study directions for employment policy necessary to achieve the labor mobility demanded of the labor market today, based on the above problem awareness and with a view to achieving full employment. To approach this task, the author will first look back briefly at how the labor market was organized by employment policy after World War II. This is because, although a situation close to full employment was achieved under high-level economic growth, it may be possible to obtain hints for studying employment policy today by looking at the functions served by employment policy in the process leading to polarization of the labor market amid subsequent changes in the economic environment. Secondly, problems faced by Japan's labor market will be enumerated. By doing so, it will become clear that the current lack of fluidity between external and internal labor markets derives from Japanese-style employment practices. And thirdly, the author will present specific tasks for employment policy in the short term, with a view to making the labor market more flexible so that labor mobility support measures can function.

## **II. Employment Policy and Organization of the Labor Market until Now**

As the premise for studying future employment policy issues, the author will first give an overview of the organization of the labor market via the development of employment policy after World War II. In doing so, the period in question will be divided into three segments: from the aftermath of World War II until the start of high-level growth, from the period of high-level economic growth until the 1st oil crisis, and the period subsequent to that.

### **1. From the Aftermath of World War II until the Start of High-Level Growth**

After World War II, Japanese society faced a situation of mass unemployment and national starvation. In this period, the basic framework for organizing the labor market was

formed, with the elimination of national subsistence insecurity as its most pressing concern. The following is a brief overview of that period, aided by reference to Shojiro Ujihara's work.<sup>2</sup>

With the national economy reeling from a devastating blow at the end of World War II, it became a basic task for employment and unemployment measures to secure minimum levels of subsistence for the people. This would be done by creating employment opportunities through economic reconstruction, increasing the supply of consumer requisites, and so on. As specific measures for the labor market, the aim was to organize the labor market with a view to achieving labor mobility in the process of industrial reorganization from military production to a focus on consumer requisites, and to achieve livelihood security for the unemployed and underemployed.<sup>3</sup> Turning attention to the organization of the labor market, the Employment Security Act and Unemployment Insurance Act were enacted in 1947, and the basic framework was now in place. Of course, at the time, no adequately functioning conditions were yet in place, as shown by the fact that many unemployed persons and persons in unstable employment were receiving welfare. Even then, Public Employment Security Offices were starting to be developed under the Employment Security Act, and in tandem with the unemployment insurance system, the "institutional foundation for employment policy" was formed.<sup>4</sup>

Moreover, in response to the massive personnel restructuring arising from the deflationary policy based on the Dodge Plan at this time, the Emergency Unemployment Measures Act was enacted in 1949. This had the aim of providing temporary employment for the unemployed until they could find new jobs. Of course, this led to an influx of middle-aged and older workers who had difficulty in finding re-employment, self-employed workers who had trouble making ends meet, women with no previous employment, and others, all of whom were not originally planned to be covered by the measures but then became stagnated in unemployment countermeasure businesses.<sup>5</sup>

## 2. The Period of High-Level Economic Growth

In this period, achieving full employment became the concrete policy target, while eliminating the massive underemployment that existed at the time (i.e. latent unemployment) became an important task. On this point, the 1960 concept of a "Plan to Double the National Income" played an important role. In terms of employment policy, this Plan has been appraised as "eliminating the state of underemployment, narrowing the income gap, ... and creating preconditions for full employment by inducing a reorganization of industrial structure toward an expansion of heavy chemical industries and other high-productivity

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<sup>2</sup> Shojiro Ujihara, *Nihon Keizai to Koyo Seisaku* [The Japanese economy and employment policy] (Tokyo: University of Tokyo Press, 1989).

<sup>3</sup> *Ibid.*, 4.

<sup>4</sup> *Ibid.*, 15.

<sup>5</sup> *Ibid.*, 9ff.

sectors, filling the employment demand that arises there by transferring low-income underemployed workers who were stuck in primary industries, small and micro business sectors in secondary industries, commercial and service sectors in tertiary industries, etc., and raising the productivity of these low-productivity sectors.”<sup>6</sup> Thanks to high-level economic growth, underemployment was basically eliminated in the 1970s. This enabled workers to achieve economic independence through employment, while welfare and other social security now mainly targeted the elderly, disabled and others who could not participate in employment relationships. In other words, steps were taken to separate employment from social security.<sup>7</sup>

High-level economic growth required large-scale labor mobility associated with the burgeoning demand for manpower and changes in the industrial structure. This need was met through the provision of large numbers of new graduates in the population structure of the time. As Ujihara points out, “This workforce had the potential to enter a wide range of professions, because labor mobility between regions was easy as they were single and also because they had not yet experienced any profession, and moreover had a high level of adaptability to new technologies and new production methods because they had good educational backgrounds.”<sup>8</sup> Vocational guidance and job introductions by schools and Public Employment Security Offices served a major function in this labor mobility.

During this period, in addition to general employment measures, a special employment policy was adopted for those who became “structurally unemployed” amid the transition of industrial structure. These included ex-workers of armed forces stationed in Japan, former mine workers, middle-aged and older workers who had left their jobs, and migrant workers from farming households.

The basic framework of a positive employment policy was laid down in the process leading up to this period of high-level economic growth. This consisted, firstly, of a Keynesian aggregate demand management policy; secondly, general employment measures such as providing job information, vocational guidance and training, development of unemployment insurance, etc.; thirdly, special employment measures for structural unemployment; and fourthly, livelihood security for the unemployed through unemployment insurance.<sup>9</sup> The stated purpose of the 1966 Employment Measures Act was “for the national government to promote a balance in terms of both quality and quantity between labor supply and demand throughout its policies, as well as to enable workers to make effective use of their abilities by comprehensively taking the necessary measures for employment, thereby creating employment security for workers and improving workers’ economic and social

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<sup>6</sup> *Ibid.*, 26–27.

<sup>7</sup> Yoichi Shimada, “Hinkon to Seikatsu Hoshō: Rodō no Shiten kara [Poverty and livelihood security: From the perspective of labor law],” *Journal of the Japan Labor Law Association*, no.122 (2013): 103.

<sup>8</sup> Ujihara, *supra* note 2, at 30.

<sup>9</sup> Ujihara, *supra* note 2, at 37–38.

status, as well as contributing to the balanced development of the national economy and economic and social development and the achievement of full employment.” As this reveals, the purpose was to formulate and materialize employment plans closely related to economic plans.

Of course, companies in this period were actively hiring new graduates on the presumption of continuing upward growth. As a result, an external labor market that would support workers’ labor mobility was not developed.

### 3. Since the 1st Oil Crisis

In the period of high-level economic growth, the fact that unique employment relationships that came to be known as Japanese-style employment practices had been formed in companies had a major impact on employment policy after the 1st oil crisis. As already shown above, labor demand in the period of high-level economic growth was mainly filled by new graduates. Partly because of this, companies did not hire workers who had the special vocational skills they needed, but rather those with general job adaptability, and then set out to train them in vocational skills. As a result, the scope of workers’ job duties remained opaque and was entrusted to workplace practices; the employment relationship had only a very slight contractual element.<sup>10</sup>

Then, systems whereby wages would also rise in accordance with seniority were adopted, and schemes for promoting long-term employment were formed via systems of lump-sum retirement payments, etc. Meanwhile, companies also came to pay family allowances and others of the type often paid as social benefits in continental Europe. Generous systems of employee welfare were adopted by the larger companies, while labor-management relations were managed by individual company unions. These factors produced workers with a high level of loyalty to their companies.

This “community”-based formation of corporate employment relationships gave rise to a lack of fluidity between external and internal labor markets (companies).<sup>11</sup> In this kind of situation, maintaining their status became the logical choice for regular employees, as the constituent members of a company.

The 1st oil crisis in 1973 ended high-level economic growth worldwide. In Japan, too, large-scale personnel reductions were undertaken in the name of belt-tightening (mainly in manufacturing industries). In this kind of situation, maintaining the employment of regular employees who were union members became the most important issue for company unions.

In employment policy, too, as employment shrank, the priority turned to supporting the maintenance of employment by companies, because there was no flexibility between the

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<sup>10</sup> This point has been covered by many studies, and an excellent recent analysis can be found in Keiichiro Hamaguchi, *Wakamono to Rodo* [Youth and labor] (Tokyo: Chuo Koron Shinsha, 2013).

<sup>11</sup> Yoichi Shimada, “Seishain to Hiseishain no Kakusa Kaisho ni Nani ga Hitsuyo ka [What must be done to eliminate disparity between regular and non-regular employees?],” *Sekai* (October 2008): 174.

external labor market and companies. In 1974, the Unemployment Insurance Act was radically amended and re-enacted as the Employment Insurance Act. In it, three undertakings including improvement of employment were established as measures to improve employment and unemployment insurance, as well as preventing unemployment. In essence, though, the direction of supporting the maintenance of employment by companies can be said to have been reinforced. Employment adjustment benefits (as they were then, or, from 1981, “employment adjustment subsidies”) are a typical example of this. Employment adjustment benefits were partially paid as leave allowance to companies adopting shutdown measures as a way of avoiding dismissals in the process of employment adjustment. Although this may be appraised as a reasonable policy judgment designed to eliminate employment uncertainty in the short term, it has to be said that the limits of its effectiveness were not sufficiently understood. Of course, measures like the system of employment adjustment subsidies function effectively when a company subject to support for maintaining employment recovers its own ability to absorb employment.<sup>12</sup> Therefore, in a period when there were prospects for a transformation of the industrial structure, an environment that could encourage labor mobility within the labor market also had to be formed at the same time.

Before this external labor market could be sufficiently developed, however, companies started to limit their hiring of regular employees, and instead came to use many more part-time workers and other non-regular employees, i.e. workers with fixed-term contracts. Unlike regular employees, non-regular employees were not made full members of the company as a community, but were regarded as manpower procured temporarily from the external labor market. Their conditions were also formed under separate principles to those of regular employees. But as long as the focus of non-regular employment was on labor as secondary support for household incomes, this was not perceived as a particularly serious problem in terms of employment policy.

#### 4. Summary

Until the start of high-level economic growth after World War II, the Unemployment Insurance Act and Employment Security Act had been enacted, Public Employment Security Offices had been developed, and the basic framework for organization of the labor market had been formed. In the economic environment of the time, however, it was not possible to provide employment enabling workers to be economically independent, or to reduce the vast numbers of underemployed and unemployed persons. In this period, unemployment countermeasure businesses that gave the unemployed temporary employment opportunities produced large numbers of stagnant workers, and performed a function contrary to their policy objective.

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<sup>12</sup> On this point, see Yoichi Shimada, “Kigyonai no Misumacchi to Kaikoken Ranyo Hori [Employment mismatch and the doctrine of abusive dismissal],” *The Japanese Journal of Labour Studies*, 54, no. 9 (2012): 51–52.

Industrial expansion in the period of high-level economic growth gradually absorbed ever-larger numbers of underemployed persons, and large numbers of new graduates supported this labor demand. The basic framework for employment policy was also set down in this period. It consisted of (i) aggregate demand management policy, (ii) general employment policy, (iii) special employment policy and (iv) unemployment measures. Meanwhile, Japanese-style employment practices were established, companies came to be organized as “communities,” and a labor market with weak fluidity between external and internal labor markets was formed.

The response to unemployment uncertainty after the 1st oil crisis was that, as shown typically in the creation of employment adjustment benefits, a policy to support the maintenance of employment by companies was adopted. But even after that, no measures to promote greater fluidity between the internal and external labor market were developed.

To survey the organization of the labor market under the employment policy until then, we may conclude that, although a basic system had been developed, its functions were not adequate. The emergence of a situation close to full employment in the period of high-level economic growth was dependent on labor demand. In this period, Japanese-style employment practices in which companies were organized as communities became established without any direct relationship to employment policy. Subsequent employment policy supported the maintenance of employment by companies.

The 1998 amendment of the Employment Insurance Act established “Educational Training Benefits” directly supporting workers’ own efforts to acquire vocational skills. These were the green shoots of a new employment policy that differed from conventional support measures for maintenance of employment by companies. Then, under the 2001 amendment of the Employment Measures Act, the purpose of employment policy was redefined as being “...for the national government to facilitate proper functioning in the labor market in order to strike a balance in terms of both quality and quantity between labor supply and demand, as well as to enable workers to make effective use of their abilities by comprehensively taking the necessary measures for employment in response to the demographic changes caused by the declining birthrate and the aging of the population as well as other changes in economic and social circumstances, thereby creating employment security for workers and improving workers’ economic and social status, as well as contributing to economic and social development and the achievement of full employment” (Article 1). As such, it was confirmed that the functions of the labor market would be prioritized, and it was clear that maintenance of employment by companies was not the only mainstay of employment policy.

Besides these, the Human Resources Development Promotion Act stated, as its basic principle, that “In view of the fact that having workers exercise their abilities effectively throughout the entire period of their vocational lives is indispensable for their security of employment and an improvement of their status and will constitute a basis for the development of the economy and society as a whole, the development and improvement of human



resources pursuant to the provisions of this Act shall, as a basic principle, be carried out systematically by stages throughout the entire period of workers' vocational lives, while giving due consideration to their vocational life planning, so as to make them more adaptive to changes in their duties caused by changes in industrial structures, advances in technology, and other changes in the economic environment, and to contribute to their smooth reemployment in the case of job transfers" (Article 3). The rationale of workers "exercising their abilities effectively throughout the entire period of their vocational lives" can be seen as being premised upon the fact that employment policy should aim for a flexible labor market conditional upon labor mobility, rather than support measures for maintenance of employment in companies.

However, the specific evolution of employment policy still remained inadequate, in terms of the increased flexibility of the labor market.<sup>13</sup> Seen in this light, the development of an employment policy that positively organized the labor market in the true sense had already been achieved as a legal doctrine of employment policy, but steps to put it into practice must be regarded as a new issue.

### **III. Increased Flexibility of the Labor Market and Issues for Employment Policy**

#### **1. Problems Facing Japan's Labor Market**

If the target of employment policy is to achieve full employment, the present situation could be described as far divorced from that. The days when it was taken for granted that new graduates would first embark on their careers as regular employees are now in the past; now, young people are increasingly starting their vocational lives as non-regular employees, without originally intending to. The ratio of non-regular employees was around 20% in 1990 but had risen sharply to 36.7% by 2013. Viewed by age group, similarly, the increase is particularly marked among males aged 15 to 34. For a growing section of the population, moreover, the income of non-regular employees is no longer supplementary to the household income, but has become the main source of income. According to the 2011 General Survey on Part-time Workers, the ratio of workers who live mainly on income from part-time labor has risen to 29.5% (males 61.4%, females 15.9%). By contrast, regular employees remain stable from the viewpoint of maintaining employment, at least in medium-sized or larger companies, but they are forced to work long hours without restriction on the place of employment or the job content. Indeed, they could be described as "unrestricted regular employees." A polarization of the labor market has taken place.

Previously, unrestricted regular employment was a working format that was tolerated in exchange for long-term employment security, at least. In recent years, however, unre-

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<sup>13</sup> Of course, it is a fact that, in the external labor market, employment measures in support of labor mobility were gradually enhanced during this time, including job cards and labor mobility support subsidies.

stricted working formats with no guarantee of long-term employment have become prevalent in some companies. Concrete manifestations of this include an increase in power harassment and the problem of “black companies” (sweatshops).<sup>14</sup> From that viewpoint, too, a need could be seen to improve unrestricted working formats.

Therefore, both regular and non-regular employees are facing problems that cannot be overlooked. Even if the capacity to absorb employment existed, it would not be acceptable for non-regular employees to be absorbed as unrestricted regular employees in their present state.

This current situation also entails numerous problems from the viewpoint of employment in a society with a declining birth rate and aging population. The working format of unrestricted regular employees is difficult to balance with childcare, and this causes women to abandon hope of continuing their employment. And even when a woman who has temporarily left her job wants to return to work after the childcare period, it is difficult to acquire the status of a regular employee. Moreover, unrestricted working formats make it difficult to raise children while remaining in employment. While the Child Care and Family Care Leave Act provides for a system of supporting childcare while working, these are difficult to use when employed in unrestricted working formats. In unrestricted working formats, the scope of each worker’s job duties is unclear; therefore, if workers take leave, are absent or work short hours, it is highly likely to impact their colleagues’ work volume. With this as a background factor, taking leave for childcare has recently led to a lack of understanding by coworkers, as illustrated by the phrase “maternity harassment.” Without developing an employment environment that offers a work-life balance, no progress can be expected in the employment of women; and there can surely be no prospect of reversing the trend toward declining birth rates, either.

These problems may be seen as a manifestation of deficiencies inherent in Japanese-style long-term employment practices formed in Japanese companies from medium-sized and up. These employment practices were originally established among male regular employees on the premise of gender-based job division amid the upward growth of the Japanese economy, and cannot be taken as an employment model for the future. What is required of employment policy from now on is to overcome the problems inherent in Japanese-style employment practices, and to increase the flexibility of a polarized labor market. Absorbing women into the labor market over the long term by converting current non-regular employees to stable employment and increasing employment with work-life balance could be seen as the labor mobility that should be pursued by employment policy today.

Therefore, its aims should be to transform the basic structure of employment society, rather than just patching up the holes appearing in it. This would amount to a reform of regular employment.

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<sup>14</sup> As pointed out by Hamaguchi, *supra* note 10, at 217ff.

## 2. Specific Tasks for Future Employment Policy

As specific tasks for the time being with a view to reforming regular employment, one could propose supporting the creation of regular employment systems in which the scope of work, working hours, place of employment and other aspects are restricted (restricted regular employees), reforming regulations on human resource business, and strengthening safety nets, including enhancement of vocational skill development. Here, the issues of restricted regular employees and worker dispatch will first be considered.

In order to reform regular employment, a core segment of Japan's employment system, the specific policy for this and the processes used to achieve it will be extremely important. In terms of policies that support labor mobility, the issue of easing regulations on dismissal is occasionally proposed.<sup>15</sup> For sure, dismissal regulation effectively obliges employers to maintain employment within a reasonable range, and consequently has the function of suppressing labor mobility. However, it would not necessarily be appropriate to speak of easing dismissal regulation without first preparing conditions that would support greater flexibility in the labor market. In the following, after briefly touching on dismissal regulation, the specific tasks mentioned above will be discussed.

### (1) Greater Flexibility of the Labor Market and Dismissal Regulation

Without developing a labor market in which dismissed workers' lives are secure during the period of unemployment and they can find new jobs in a short time, relaxing dismissal regulation would place workers in a harsh situation. In the post-Lehman recession, the inadequate preparation of an external labor market meant there was no option but to adopt a realistic response of relaxing the conditions for paying employment adjustment subsidies and supporting companies in their maintenance of employment. Also, the need to stabilize workers' employment made it essential that companies should be prevented from making easy dismissals through opportunistic behavior. Moreover, even in Denmark, a country with more relaxed dismissal regulation, a flexible labor market has been formed by means of positive labor market policies. In other words, the formation of a flexible labor market with easy labor mobility should be seen as an essential requirement for relaxing dismissal regulation; relaxing dismissal regulation would not in itself make the labor market more flexible.

Furthermore, it should be borne in mind that Japan's substantive regulation on dismissal was formed through the doctrine of legal precedent. The doctrine on abuse of dismissal rights is currently incorporated in the Labor Contract Act, and is now statute, but its rules still retain the characteristic that they are based on legal precedent. This means that dismissal regulation was not developed as an embodiment of employment policy. As a national legislative policy, dismissal regulation has been entrusted to the judiciary without any special measures being taken. And the doctrine on abuse of dismissal rights reflects practic-

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<sup>15</sup> On this point, see Shimada *supra* note 12, at 52ff.

es related to the termination of employment that were raised within Japanese-style employment practices. What's more, these are abstract provisions demanding that dismissal be based on "objectively reasonable grounds" and "appropriateness in general societal terms" (Labor Contract Act, Article 16). The interpretation of their specific application has been left to the judgement of judges, based on the accumulation of judicial precedents to date. Judges make their judgements by applying the specific facts of a case under their jurisdiction to abstract norms. Therefore, there will be no great change in the principle of legal precedent, in that the current unrestricted regular employees constitute the premise. In other words, the nature of the employment relationship in question forms the basis for judgment.

Considering the above as a premise, it cannot be seen as appropriate to start a discussion by revising dismissal regulation, even if greater flexibility of the labor market is targeted as a support measure for labor mobility.<sup>16</sup>

## (2) Support for Creation of Restricted Regular Employment Systems

Restricted regular employees are those who have no fixed term stipulated in their labor contracts, but whose work duties, place of employment or working hours are restricted in labor contracts. Since the scope of their duties in the broad sense is clear, they could also be called "job-type regular employees." This is an attempt to reform regular employment by newly introducing systems of restricted regular employment into regular employment, comprised until now of the unrestricted regular employees mentioned above. Reform of regular employment cannot be achieved through policy development in the external labor market, as with ordinary employment policy, and deep inroads need to be made into corporate personnel systems, i.e. the internal labor market. As stated above, this is because the current system of regular employees was formed within Japanese-style employment practices. Nevertheless, it is a system created autonomously by companies, and as far as employment policy is concerned, the only option lies in indirect means of supporting the introduction of restricted regular employment systems. As employment policy, firstly, information including system design for diffusing restricted regular employment systems needs to be provided. After that, the legislation necessary to support restricted regular employment systems will need to be developed.

### (i) Outline of the Framework of Restricted Regular Employment Systems

Regular employment until now, called "membership-type employment" in contradistinction to job-type employment,<sup>17</sup> not only has no fixed contract term, but also has no restriction on the job content or place of employment; long working hours are a given. Until

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<sup>16</sup> However, since the doctrine on abuse of dismissal rights is a doctrine of legal precedent, judgments only concern the validity of dismissal contested in court, and a reappraisal is needed in that procedural regulation as in the EU would be inadequate.

<sup>17</sup> On the typology of job-type employment and membership-type employment, see Hamaguchi, Hamaguchi, *supra* note 10, at 25ff.

now, in exchange for this “company-bound” labor contract, regular employees have been guaranteed security of employment and a wage with which to support their families. Employment by companies today has been polarized into unrestricted regular and non-regular employment, as described above. Restricted regular employment may be regarded as a personnel system that needs to be introduced in order to eliminate the disadvantages of this polarization.<sup>18</sup>

It is not that restricted regular employment-type systems have not previously existed in Japan. The term “employees with restricted place of employment” may well sound familiar to the Japanese reader. In fact, according to a report by a Ministry of Health, Labour and Welfare research group on “Regular Employees under Diverse Formats” (April 2011), approximately half of all companies with 300 or more employees had adopted some type of restricted regular employment system as described here, and about 40% of those are said to be regular employees with restricted place of employment. The results of this survey suggest that restricted regular employment systems are not merely at the conceptual stage, but are already capable of entering the stage of implementation.

However, an important point is the specific deployment of such a system. Until now, even if the job content or place of employment has already been restricted, it has in reality often not been deployed with particular rigor. Even when hired as restricted regular employees, it has not been rare for capable employees to be upgraded above the job duties originally planned, and to do the same work as unrestricted regular employees. Also, rules of employment and others are often not developed in a way befitting restricted regular employees. Under such circumstances, restricted regular employment cannot be considered established as a system.

Here, “restricted regular employment systems” refers to those that have been clearly established as personnel systems distinct from those for unrestricted regular employees. Specifically, restricted regular employment systems need to be created as separate personnel systems alongside conventional regular employment systems, i.e. systems for unrestricted regular employees.

Specifically, restricted regular employment systems are created by developing work rules, etc. However, this does not stop at developing work rules, but should be made clear in labor contracts as well. This is because, for restricted regular employees, the scope of work duties is strictly stipulated in labor contracts. Based on the premise of the existing system, the written specification of working conditions based on Article 15 (1) of the Labor Standards Act and Article 5 of the Labor Standards Act Enforcement Regulations (Notification of Working Conditions) has an even more important significance than hitherto. This is because labor contracts of restricted regular employees, unlike those of unrestricted regular employees, do not specify provisional job content and place of employment, but define the actual

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<sup>18</sup> In future, this system will probably function as personnel treatment to cope with cases when fixed-term labor contracts become open-ended through exercise of the right to apply for conversion to open-ended contracts (Labor Contract Act, Article 18).

job content and place of employment according to the labor contract. In this sense, when concluding labor contracts for restricted regular employees, the contract content must be stipulated with a strong contractual awareness on both labor and management sides.

Meanwhile, for restricted regular employment systems to function appropriately, it is not sufficient for top management and personnel divisions alone to understand the distinction between unrestricted and restricted regular employees; all employees must understand it. In view of this, it is vital to enhance all employees' understanding of restricted regular employment systems through training, etc. This is because, without such understanding of the system by the whole staff, there is a risk that the treatment of restricted regular employees in actual sites of deployment could be inappropriate, and the essential distinction compared to unrestricted employees in terms of work content and other aspects could be lost.

It would also be appropriate for future personnel management to create systems for upgrading from restricted to unrestricted regular employment. Taking this one step further, it would also be desirable to create a system of interchangeable conversion between restricted and unrestricted regular employees. For example, a person may join a company as an unrestricted regular employee, but employees with family responsibilities of childcare, nursing or home-based care may be permitted to become restricted regular employees just for that time, then later go back to unrestricted regular employment. This kind of system could be seen as indispensable in future, from the viewpoint of employing women or achieving work-life balance.

In restricted regular employment systems, too, it must be possible to engage in work differing from the original contract content. What is important in such cases is that the labor contract must be amended. Under existing law, written specification of working conditions is only mandatory at the time of concluding the labor contract, but in future, it will be desirable to have written confirmation when changing the working conditions, too. This should also be considered necessary in view of the fact that the Labor Contract Act requires the content of labor contract to be confirmed in writing as far as possible (Article 4 [2]).

## (ii) Tasks When Developing Legislation to Accompany Systems of Restricted Regular Employment

Firstly, specified matters for working conditions in restricted regular employment systems should be developed in the Labor Standards Act and Labor Standards Act Enforcement Regulations.<sup>19</sup> In particular, not only when concluding labor contracts, but also when changing the content of labor contracts, it should be made mandatory to expressly state the content thereof. Secondly, to correct inconsistency in working conditions between restricted and unrestricted regular employees, a provision similar to Article 20 of the Labor Contract Act, which prohibits unreasonable discrimination on grounds of the contract term, should be

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<sup>19</sup> Whether this legislation should be prepared within the Labor Standards Act or the Labor Contract Act would be an issue for future debate.

introduced to achieve a balance of treatment according to the actual conditions of work (Labor Contract Act, Article 3 [2]). This is because, if the conditions for restricted regular employees were to remain about the same as for current non-regular employees, an attractive system could not be established.

In terms of the relationship between restricted regular employees and dismissal regulation, meanwhile, even when considering judicial precedents related to the doctrine on abuse of dismissal rights until now, these are applied differently in cases typifiable as pure restricted regular employees, compared to unrestricted regular employees. An example can be seen in the Murakami Gakuen School Corporation case, concerning the validity of laying off a university professor when a special course was discontinued (Osaka District Court, November 9, 2012, *Rodo Hanrei Journal* 12–8). In the court’s judgment on the four requirements (4 factors) of economic dismissal, a judgment differing from that for unrestricted regular employees was given.<sup>20</sup>

However, focusing on the relationship with dismissal regulation when discussing the introduction of restricted regular employment systems is like putting the cart before the horse. This is because, if restricted regular employment systems were to be established, it would mean that the way of applying the doctrine on abuse of dismissal rights would itself change, and not that restricted regular employment systems would be introduced in order to create a system that makes dismissal easy.

### (3) Optimization of Worker Dispatch Systems: From Preventing Substitution of Full-Time Workers to Prohibiting Abuse of Agency Labor

Although the ILO was negative toward agency business in view of its earlier target of state management of labor markets, the 1997 Treaty No.181 (Private Employment Agencies Convention) brought major changes to this basic stance. Now, agency business such as job introductions and worker dispatch was regarded as a manpower supply-demand adjustment mechanism on a par with Public Employment Security Offices in the labor market. Japan ratified Treaty No.181 in 1999. Now, manifesting the effective functions of agency business in the labor market and protecting the workers handled there must be at the core of Japan’s employment policy. There are many points to be discussed in this respect, but the focus of study here will be on worker dispatch systems.

Since it was enacted in 1985, the Dispatched Workers Act has been amended in 1999, 2003 and 2012. The amendments up to 2003 moved toward expanding the scope of use of worker dispatch, in response to the rationalization of ILO Treaty No.181. During the recession caused by the Lehman crisis in 2008, however, there was a spate of cancellations of worker dispatch contracts, particularly in manufacturing industries, putting many agency workers out of work. This acted as a major trigger for a growing debate aimed at intensify-

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<sup>20</sup> On the introduction of judicial precedents, see “Annex 3: Analysis of Judicial Precedents in Cases Where a Restricted Place of Employment or Job Duty Has Ceased to Exist” in the “Employment Working Group Report,” 15ff.

ing the regulation of worker dispatch systems. The 2012 amendment was passed in response to this. This amendment, it must be said, includes many parts where regulation of worker dispatch systems as a whole is strengthened in order to prevent abuses that had arisen in some areas of worker dispatch. A typical example of this is the basic prohibition of day labor dispatch (dispatch of 30 days or less). While it is a fact that cases of abuse were found in day labor dispatch, prohibiting this will not achieve employment security for agency workers whose lives depend on such work. Meanwhile, because the demand for day labor dispatch is large, exceptions are tolerated in accordance with the business and workers' attributes.<sup>21</sup> Consequently, work is taken away from agency workers who had previously been engaged in day labor dispatch. Employment security of agency workers whose lives depended on day labor dispatch should be sought by means other than prohibiting day labor dispatch.

Based on a Diet resolution supplementary to the 2012 amendment, a research group aiming to revise the worker dispatch system was launched under the Ministry of Health, Labour and Welfare. In 2013, it submitted its "Research Group Report on Future Directions for Worker Dispatch Systems." The report has come under the spotlight as it proposes a major transformation in ways of regulating worker dispatch. Protecting agency workers while simplifying dispatch regulation and promoting the effective use of worker dispatch may be appraised as an appropriate future direction. An example of this is the proposal that the so-called 26 sectors with no restriction on dispatch acceptance period be scrapped, and regulation on the dispatch period be changed from units based on businesses to units based on individuals. As there is no space for a detailed study, a few thoughts will now be given on the principle of dispatch regulation to prohibit what is known as full-timer substitution.

The Dispatched Workers Act that was enacted in 1985, before the ILO Treaty No.181 was adopted, created a framework that recognizes worker dispatch as long as it "does not impair employment practices which are considered to contribute to the effective realization of the capacities of workers and the stability of their employment throughout their working lives" (Article 25, Article 40.2). Here, employment practices are of course Japanese-style employment practices. This must therefore be said to be aimed at securing the scope of unrestricted regular employees. This is generally replaced with the term "prevention of full-timer substitution" and discussed as such. However, there is no regulation or other control on the use of part-time workers and fixed-term labor contract workers, for example, from the viewpoint of preventing full-timer substitution. The difference between agency workers and part-time or fixed-term labor contract workers is that the latter two are hired directly. However, in that dispatch labor is positioned as a system of manpower supply and demand on the labor market, it can be said to lack consistency that, merely because agency

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<sup>21</sup> On workers' attributes, persons aged 60 and over, students or pupils not eligible for employment insurance, persons engaged in day labor dispatch as a side business (income requirement at least 5 million yen), and persons other than main breadwinners (only when the household income is at least 5 million yen) are excluded from the prohibition of day labor dispatch.



workers are not hired directly, they are subject to prevention of full-timer substitution.

Given that the ratio of non-regular employees is rising in the first place, employment formats are diversifying, and Japanese-style employment practices have been transformed, it is not appropriate to impose regulation on worker dispatch alone, simply because of the principle of preventing full-timer substitution. As stated above, Japanese-style employment practices invite polarization of the labor market between unrestricted regular and non-regular employees, and therefore this in itself is the true target of reform.

The report may be worthy of praise in that it focuses on changes in Japanese-style employment practices and revises ways of preventing full-timer substitution, but it is not enough that this principle is still maintained. In order to develop appropriate roles for worker dispatch systems in the labor market and make it possible for agency workers to work without discrimination based on their employment format—or, in other words, to make it possible to position dispatch labor as an important step in the career formation of workers—the principle of dispatch regulation should be changed from preventing full-timer substitution, which functions to protect unrestricted regular employees, to “preventing abuse of dispatch labor.”

#### **IV. Conclusion**

To achieve suitable labor mobility into growth industries without causing unemployment, the task for employment policy at the current point in time is to comprehensively promote the greater flexibility of the labor market by means of reforming regular employment. In this paper, the discussion has mainly focused on systems of restricted regular employment and worker dispatch, as the first steps in reforming regular employment. On worker dispatch systems, however, the discussion has only considered problems with the principle of preventing full-time substitution, proposing that this be replaced with the principle of preventing abuse of dispatch labor. Problems such as the balanced treatment of agency workers have remained outside the discussion.

Meanwhile, the policy task of increasing the flexibility of the labor market presents a mountain of problems that require study, such as revising systems of workers' vocational skill development and replacing safety nets. These should be made tasks for the future.

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# Productivity, Demand and Inter-Sectoral Labor Allocation in Japan

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This paper first overviews recent trends in inter-sectoral labor allocation in Japan. I find that three sectors have been expanding at the expense of manufacturing. These three sectors are: medical and health services, corporate services, and information services. I study the roles played by both productivity and demand factors behind those changes. As for productivity, the greatest gain has been found not in those growing sectors but rather in manufacturing, especially electronics. Does that mean that Japan should have expanded this sector further? Not necessarily. I show theoretically that, when demand satiation is important, a productivity increase in one sector could actually reduce the optimal labor allocation to that sector, when an endogenous decline in the product price is sufficiently large. In fact, prices of electronics products in Japan have been falling dramatically. In the light of the model, we could argue that labor allocation to the electronics sector should have been contracted faster. As for the demand factor, I study the relationship between population aging and labor allocation to the medical and health service sector. I find that, despite the large labor inflows, this sector suffers from a chronic and massive labor shortage. I hypothesize that this is because prices of those services do not react to market conditions. As a consequence, in spite of the large shortage, wages do not respond, and the sector fails to attract labor fast enough.

## I. Introduction

### 1. Japan's Long Stagnation and the "Productivity View" of Labor Allocation

This paper studies trends in inter-sectoral labor allocation in Japan. I take up its two driving forces, namely relative productivity across sectors (the supply side factor) and the relative demand for goods and services produced by different sectors (the demand side factor), with a special emphasis on the latter.

The main motivation behind the analysis is the long-term stagnation of the Japanese economy. Growth decelerated in Japan since the so-called bubble collapse in the early 1990s. The average growth rate of GDP was 4.7% between 1981 and 1990, but was down to merely 1.2% between 1991 and 2000. Between 2001 and 2010, the growth rate was even lower, at 0.8%. Many researchers believe that this is due to low productivity growth.<sup>1</sup> The best source of information regarding Japanese productivity growth is the JIP (Japan Industrial Productivity) Data Base, which is provided on the web site of the Research Institute of

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\* This paper is a much revised version of Shioji (2013b). I would like to thank Daiji Kawaguchi and Hideo Hayakawa for their discussions on the previous version.

<sup>1</sup> However, this view itself is not without controversy. Refer to Shioji (2013a) for the overview of the heated debate among macroeconomists over the causes of the so-called "Lost Decade (or Two Decades)."

Economy, Trade and Industry (RIETI). This data will be utilized extensively in this paper.<sup>2</sup> According to the latest (2014) version, the Total Factor Productivity (TFP) growth rate of Japan was 1.33% in the period 1980–1990, then went down to -0.03% in the period 1990–2000. In the period 2000–2010, the number was slightly up but was still just 0.50%. It is sometimes argued that this long-term stagnation of the Japanese productivity growth stems, at least partially, from the country’s failure to reallocate labor to sectors that are undergoing fast productivity growth. I shall call the view that favors labor reallocation to sectors that are experiencing fast productivity growth the “productivity view.”

## 2. Why the “Productivity View” May Not Be Valid: The Role of Prices

I shall argue in this paper that the productivity view may be to the contrary of the Japanese reality. In fact, it is possible to make a plausible case that Japan has been too slow to *reduce* employment in some of those high-productivity-growth sectors. My conjecture is that this delay is because of the presence of tight regulations in some of the sectors that are characterized by low-productivity-growth and increasing demand for their goods and services. Such regulations prevented wages in those sectors from rising fast enough, thus slowing down the inevitable reallocation of workers out of the high-productivity-growth sector and into the low-productivity-growth sector.

Why should an economy sometimes pull its resources out of a high-productivity-growth sector? This would not make much sense when prices are considered to be fixed. When prices are exogenous variables, an improvement in productivity in one sector in relation to others would improve the relative marginal product of labor in that sector, and thus call for reallocation of labor into that sector. However, in reality, prices are endogenous. In such a case, the relationship between inter-sectoral productivity and the optimal labor allocation can be more intricate. When productivity increases in a certain sector, that sector expands its production of the goods, and this tends to cause the price of their product to fall. If this effect more than offsets the immediate impact on the supply side, the relative value marginal product could actually fall. In such a case, the correct response would be to withdraw labor from that sector. Whether this happens depends on the characteristics of the demand structure. In Appendix B of this paper, I will formally present a two sector model in which it eventually becomes optimal to reallocate labor from the high-productivity-growth sector to the low one.

In light of such a theoretical result, in the first half of this paper, I present evidence that, in some high-productivity-growth sub-sectors of manufacturing, prices have been falling faster than the pace of productivity growth. To the extent that this price decline was foreseeable (which should be the case if it reflects endogenous response of prices to productivity) and given the rigidity in labor movement, Japan should have started moving labor

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<sup>2</sup> Refer to Fukao and Miyagawa (2008) for details of the data construction. The numbers quoted in this page are for the macro economy as a whole, and are on the value-added basis.

away from these sectors long ago. However, we shall see that this did not happen.

### 3. What Is Hindering Smooth Labor Re-allocation? Role of Regulations

The above fact is indicative that, in Japan, sectors that should have been absorbing workers from those sectors were not expanding their employment fast enough. What was going on? In the latter half of the paper, I shall focus on the other major determinant of inter-sectoral labor allocation, namely demand for goods and services. Theoretically speaking, when demand increases for a certain sector, normally, prices of goods and services produced by that sector would go up, which induces wages to go up, and, if labor is freely mobile, would result in increased labor allocation to that sector. However, when prices are not flexible due to, for example, regulations, such a process may not occur to its full strength, even if labor were mobile. In such a case, public intervention to accelerate labor reallocation might be justified.

In this paper, I investigate regional dispersion in prices of services for the elderly care. There are three reasons behind the choice. First, due to the rapid aging of the Japanese population, demand for elderly care has been expanding fast, making it one of the fastest growing sectors of the economy. Second, we can think of this overall society's aging, as well as the differing speed at which it is happening across the regions, to be more or less exogenous. Third, as these kind of services cannot be traded across regions, it is relatively easy to measure the size of the demand, as well as supply, in each region. It will be shown that the prices of the elderly services are not very responsive to the demand situation, and the most likely reason behind this is regulation. At the end of the paper, I utilize time series data to show that there has indeed been a persistent labor shortage in the welfare services sector.

The rest of the paper is organized as follows. Section II gives a brief overview of the recent trends in sectoral labor allocation in Japan. In Section III, I analyze the relationship between the evolution of the relative productivity, relative prices, and allocation of labor. In Section IV, I will study the relationship between the population aging and labor allocation. Section V provides conclusions.

## II. Trends in Sectoral Labor Allocation in Japan: An Overview Based on the JIP Data Base

### 1. On the JIP Data Base

In this section, I will give an overview of the historical evolution of the inter-sectoral labor allocation in Japan. The main source of data is the 2012 version of the JIP Data Base. In this data set, all the production activities in Japan are classified into 97 market economy industries, 10 public and/or non-profit industries, and "Activities not elsewhere classified"; all together, there are 108 industries of production in the data. For each industry, they provide annual statistics on gross output, value added, intermediate inputs, capital stock and labor inputs, for 1970 and all the years between 1973 and 2009. From this data, they also

compute the Total Factor Productivity (TFP for short) for each industry. As for data related to labor inputs, it provides information about the number of employees, man-hour, nominal labor cost, as well as the labor input index which takes into account variations in the quality of labor.<sup>3</sup> If one wishes to study the evolution of labor inputs for each of the individual industries, this index is probably the most suitable one to use. However, as this is an index whose value is normalized to equal 1 in 2000, it cannot be used for the purpose of inter-industrial comparison of the amount of labor inputs. For that reason, in this section, I shall focus on man-hour.

## 2. Labor Allocation across Broad Sectors

This sub-section aims to provide a big picture on the evolution of sectoral allocation of labor inputs in Japan, using the JIP data base. To demonstrate key features of the historical transformation of the Japanese industrial structure for the past forty years, I find it useful to employ the following re-classification of the sectors. First, I aggregate all the sectors other than Agriculture etc., Mining, Manufacturing into the broadly defined services group: this includes, besides narrowly defined services, construction, utility, distribution, finance, and transportation and communication. Then this group is decomposed into three broad sectors, according to the features of the trends in their respective growth in the man-hours share, into “Stable,” “Expanding,” and “Others.” Each of the three broad sectors consists of the following “semi-broad” or “intermediate” sectors, each of which is constructed by aggregating several of the 108 industries in the JIP data base; their definitions can be found in Appendix A:

Services: Expanding = (1) Medical and Welfare, (2) Business Services,<sup>4</sup> and  
(3) Information Services.<sup>5</sup>

Services: Stable = (1) Construction, (2) Utility, (3) Distribution, (4) Finance,  
(5) Transportation and Communication, (6) Personal Services, and  
(7) Education and Research.

Services: Others = Other Types of Services.<sup>6</sup>

Figure 1 shows the shares of each of the six broad sectors between 1970 and 2009. The share of Agriculture etc. plus Mining was almost 17% in 1970. By 1990, it was down to

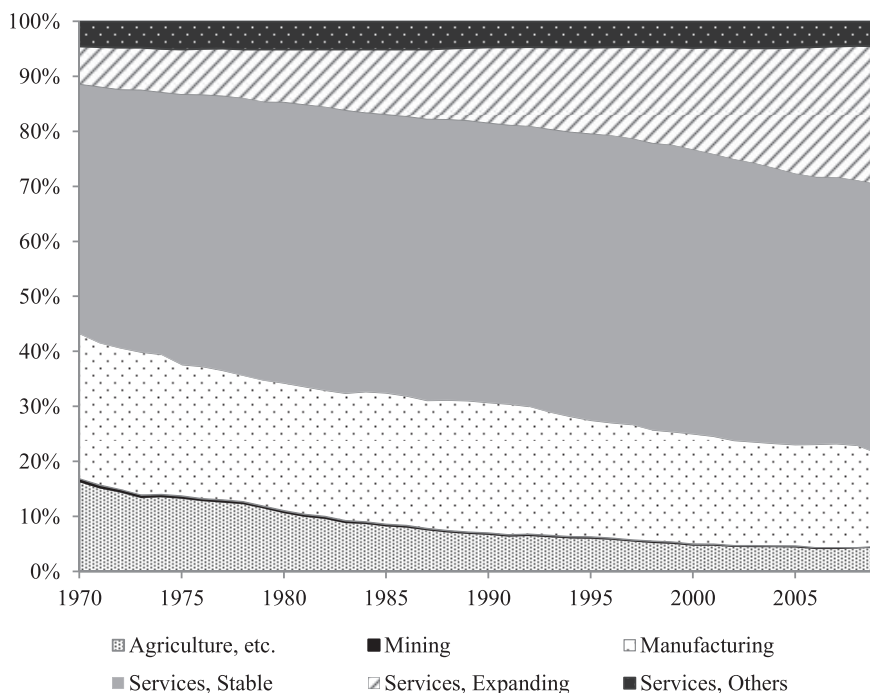
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<sup>3</sup> They first group workers according to their characteristics such as gender, age group, educational attainment and employment status. In the first step of the index construction, they compute the rate of increase in man-hour for each group. In the second step, they take a weighted average of those growth rates at the group level, by using the cost share of each group as the weight. (To be more precise, information on educational attainment is used for the full time worker group only.)

<sup>4</sup> The largest and the fastest growing industry in this category is the JIP industry “Other Services for Businesses,” which includes labor dispatch services.

<sup>5</sup> The fastest growing component is the JIP industry “Information Services and Internet-based Services.”

<sup>6</sup> Under this category, the JIP industry “Public Administration” is the largest.



Source: Author's calculations based on the JIP 2012 data base.

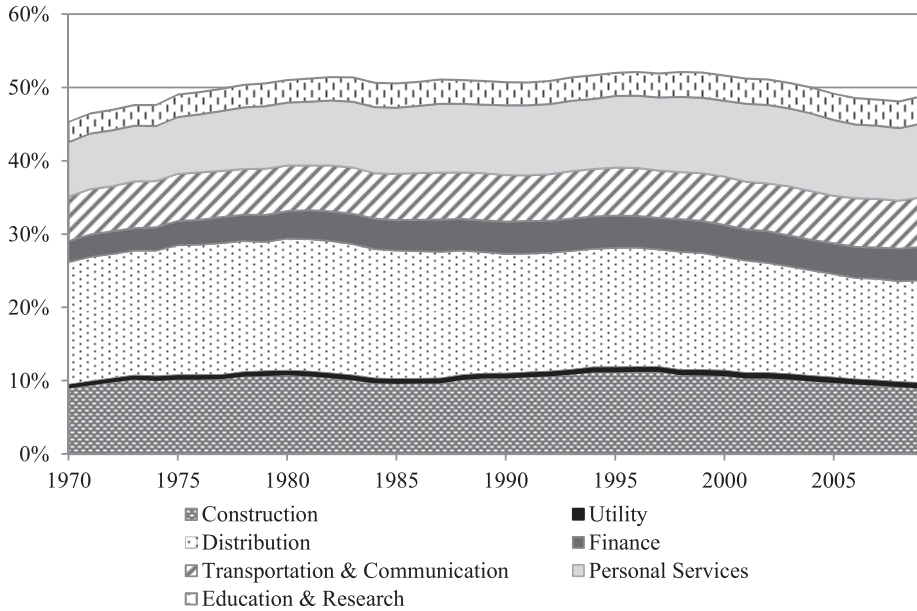
Figure 1. Evolution of the Shares in Total Man-Hours, for Production Sectors Broadly Defined

7%, and, by 2009, the number was down further, to just 4.5%. The share of Manufacturing in 1970 was 26%; even in 1990, it maintained a comparable share, at 24%. However the share was down to 17% in 2009. The losses of the relative labor inputs from these sectors were absorbed by the broadly defined services sector, and, by definition of the sectors, much of the reallocation occurred toward the broad sector of “Services: Expanding.” In the next sub-section, I will look into what has been happening inside each of the services sectors.

### 3. Decomposing the Service Sector Employment

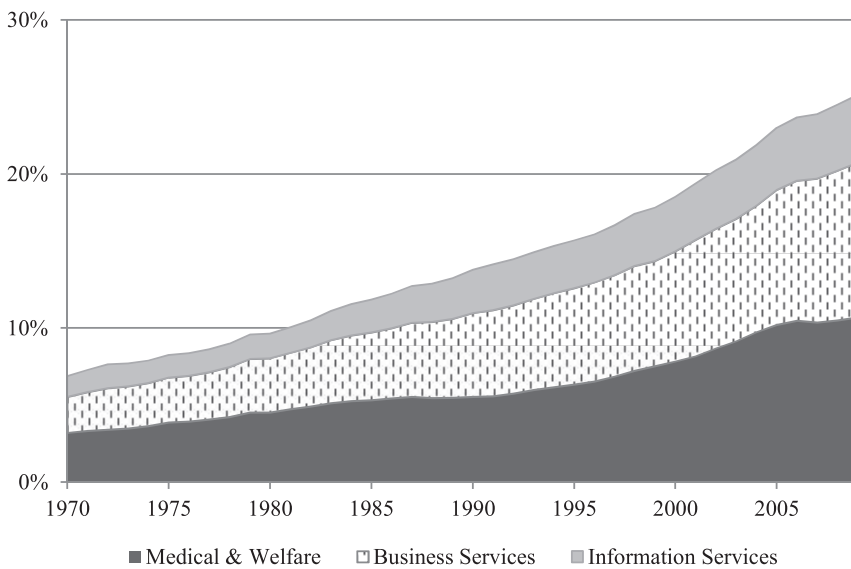
Figure 2 depicts the evolution of the man-hour shares for the intermediate sectors that belong to the broad sector “Services: Stable.” We can confirm that the total share of the broad sector remained more or less constant at about 50%. If we look inside, we find that the two intermediate sectors that originally had larger shares, namely “Distribution” and “Construction,” have been losing their shares over time. Their losses have been roughly offset by modest increases in the shares of “Personal Services” and “Education and Research.”

Figure 3 depicts evolution of the man-hour shares of the three intermediate sectors



Source: Author's calculation based on the JIP2012 data base.

Figure 2. Evolution of the Man-Hour Shares (in the Overall Total) of Intermediate Sectors within the Broad Sector “Services: Stable”



Source: Author's calculation based on the JIP2012 data base.

Figure 3. Evolution of the Man-Hour Shares (in the Overall Total) of Intermediate Sectors within the Broad Sector “Services: Expanding”

that belong to the broad sector “Services: Expanding.” The man-hour share of “Medical and Social Welfare” stood at just 3% in 1970, and was only 5.5% even in 1990. Since then, the share has experienced a rapid growth and had gone up to 10.7% by 2009. Growth of “Business Services” is equally impressive; it is suspected that much of its recent growth comes from worker dispatching businesses. As we have already seen in Figure 1, as a result of this spectacular growth, this broad sector has been absorbing almost entire losses of man-hour shares of Agriculture etc. and Manufacturing.

### III. Relative Productivity and Sectoral Labor Allocation

#### 1. Basic Theory of Labor Allocation

In this section, I shall start with reviewing implications of economic theory on the relationship between relative productivity across sectors and labor allocation between them. As my overview in Shioji (2010) indicates, theoretically speaking, it is not necessarily optimal to reallocate labor to a sector that has experienced a productivity increase. On the one hand, improvement in productivity makes the marginal product of labor in that sector higher. On the other hand, as the supply of products from that sector increases, their price per unit tends to fall. The latter effect reduces the sector’s value marginal product of labor. If the former effect dominates, the “productivity view,” namely the argument in favor of allocating labor to a sector with a higher productivity growth, is justified. However, if the latter effect is stronger, the conclusion is reversed, and it becomes optimal to withdraw labor from such a sector.

Shioji (2010) uses a simple two sector model to demonstrate that the crucial parameter is the elasticity of substitution between the products of the two sectors in the consumer’s utility function. In his setting, if the products are highly substitutable, namely if the elasticity exceeds one, the demand for each type of product becomes very price-elastic. As a consequence, the relative price is not very responsive to the relative supply of the products. In such a case, the productivity view is justified. If the elasticity is exactly equal to one, the optimal labor allocation becomes independent of the relative price. If the elasticity is below one, the demand curve becomes sufficiently steep and the relative price effect becomes strong, and the “reverse productivity view” applies: it is better to move labor away from the sector.

#### 2. Product Life Cycle and Demand Satiation

As Shioji (2010) argues, it seems rather unrealistic to expect that either one of the opposing views will *always* hold. In particular, it seems more appropriate that the sign of the effect changes depending on the maturity of the product or the sector’s current position in the *product life cycle*. When the sector is still young, very few people own its products, and the demand is very elastic. In such a situation, as the sector’s productivity improves, it can sell more of its products without cutting the price. However, as the sector matures and



reaches a stage at which one can find its products in almost all households, the *demand satiation* sets in. It becomes harder to sell larger quantities of the products to the consumers. In such a situation, if the sector's productivity improves further, the firms will have to drastically cut the price to find buyers. Hence, the demand elasticity, and thus the impact of a productivity enhancement on labor allocation, is likely to be time-varying.

### 3. Non-Monotonic Labor Transition in a Model with Satiation

In Appendix B, I present a two sector model developed in Shioji (2010), in which the notion of demand satiation is formally introduced. The defining characteristic of the model is the consumer's utility function which exhibits endogenously varying elasticity of substitution. More specifically, suppose that production of one type of goods experiences a persistent improvement in productivity, while the productivity of the other sector is constant. At the beginning, when output of the first sector is still small, its demand is price-elastic. As a result, the productivity view applies: as productivity improves, this sector's output expands without too much reduction in the relative price, and more workers will flow into this sector. However, as the relative productivity of the first sector improves further, the relative amount of consumption of its products becomes larger, and, gradually, the demand becomes satiated; i.e., it becomes price-inelastic. If the sector's productivity further improves from such a situation, the relative price falls sharply. At some point, this relative price effect will become large enough to dominate the direct effect of the productivity improvement, and the value marginal product of labor in that sector will start to decrease. At that point, workers will start to flow out of the sector.

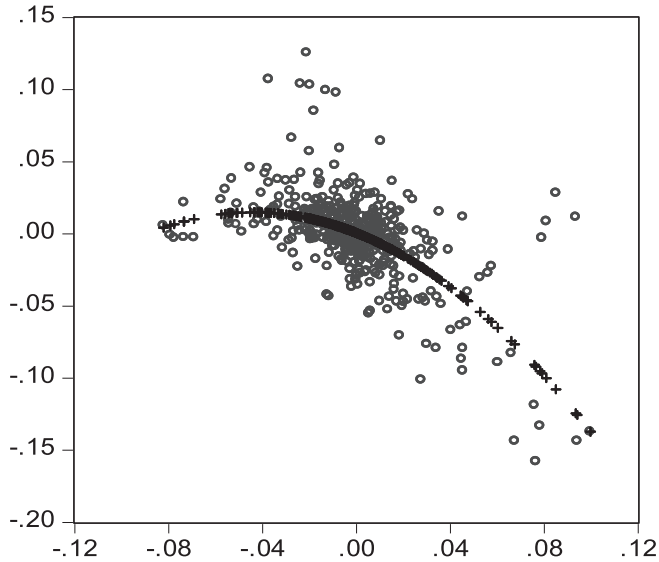
The argument so far assumed that labor is instantaneously mobile across the sectors. In reality, labor mobility takes time. In such a case, we need to modify the argument suitably. Note that the above reversal of trend in efficient labor allocation is foreseeable. Consequently, when labor mobility takes time, the turning point has to come earlier: it becomes optimal to slow down or even stop allocating labor to the sector experiencing productivity growth, even before the observed value marginal product of labor starts to decline.

### 4. Cross-Sectoral Evidence on Productivity vs. Prices

In light of the above theoretical argument, I will now go back to the JIP data base and study the relationship between relative productivity growth and relative prices. For that purpose, I have collected data on TFP growth rate for each of the 108 JIP industries for the following four periods: 1970–1980, 1980–1990, 1990–2000 and 2000–2007.<sup>7</sup> For each of the periods, I subtracted TFP growth rate at the macro level from them, to derive the relative TFP growth rate by industry. I also computed the output deflator for each industry for the same set of periods, by dividing nominal output by real output. From the growth rate of this

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<sup>7</sup> I chose to drop the years 2008 and 2009 as outliers, as the effect of the Global Financial Crisis was evident for those two years.



Source: Based on the author's calculations using the JIP 2012 data.

Figure 4. Relative TFP Growth (Horizontal Axis) vs. Relative Deflator Change (Vertical Axis): Circles (o's) indicate actual observations, while the plus signs (+'s) signify fitted values from a regression analysis (Refer to the main text for details)

deflator at the industry level, I subtracted its counterpart at the macro level, to arrive at the relative price growth rate by industry. As a result, I obtain the data for the 108 industries for the four time periods, which amounts to the total of 432 observations.

In Figure 4, I place the relative TFP growth by industry on the horizontal axis and the relative price change by industry on the vertical axis. The circles (o's) correspond to the actual data. As expected, there is a downward sloping relationship: when an industry's productivity grows, its output prices tend to fall. What is noteworthy is that the slope of this negative relationship appears to become steeper to the right of the figure: that is, as TFP growth rate becomes higher, the associated price decline becomes disproportionately large. In the figure, the plus signs (+'s) denote the fitted values from the regression which takes the relative price change on the left hand side and the TFP growth, as well as its squared value, as regressors.<sup>8</sup> It can be seen that the relationship is close to being horizontal near the origin. As we move to the right, the slope becomes steeper, and eventually exceeds 1 in the absolute value. That is to say, if we call price times TFP as the "Value TFP," its growth

<sup>8</sup> More formally, to eliminate influences of outliers, instead of the standard OLS, I utilized the quantile regression in which the median is the threshold. As a result, the coefficient on TFP growth was -0.649 (t-value = -9.254), while that of the squared TFP growth was -7.360 (t-value = -6.950), and both were statistically significant.

rate is decreasing in TFP growth rate when the latter is sufficiently high.<sup>9</sup>

## 5. Productivity vs. Prices: Evidence from Japan's Electronics Sector

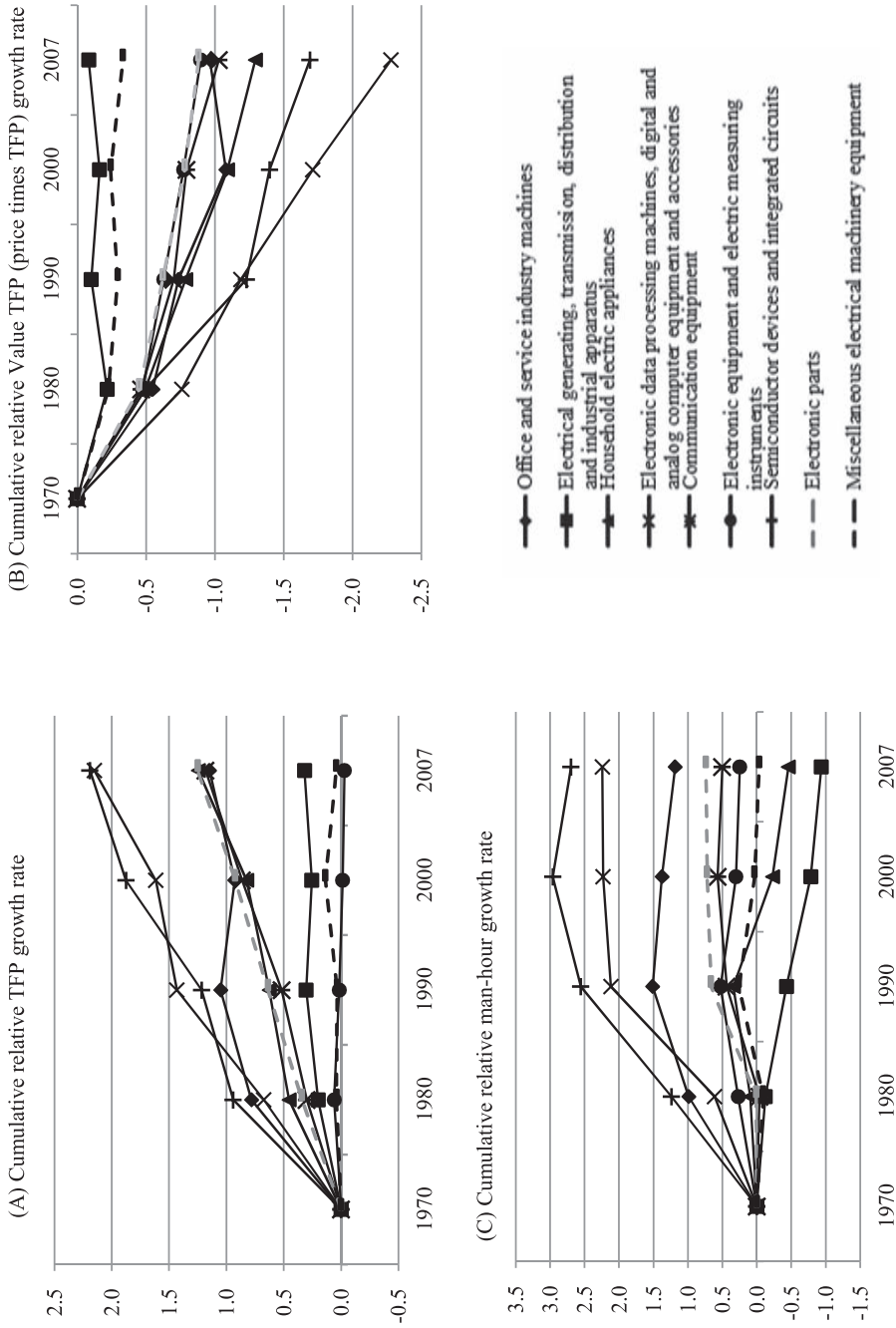
Many of the industries that appear in the lower right section of Figure 4, namely those that experienced fast TFP growth, belong to the electronics sector. In this sub-section, I will focus exclusively on the nine JIP industries that make up this sector. Figure 5A plots their TFP growth rates relative to the macro economy, accumulated over time, starting from 1970.<sup>10</sup> We see that the relative productivity growth was spectacular for "Semiconductor Devices and Integrated Circuits" and "Electronic Data Processing Machines, Digital and Analog Computer Equipment and Accessories," followed by "Office and Service Industry Machines." On the other hand, we do not observe much productivity growth (at least, relative to the aggregate) for "Electrical Generating, Transmission, Distribution and Industrial Apparatus," "Miscellaneous Electrical Machinery Equipment," and "Electronic Equipment and Electric Measuring Instruments." Figure 5B depicts the cumulative "Value TFP" (i.e., output price times TFP) growth rates for the same group of industries. Those sectors with higher TFP growth tend to have lower Value TFP growth. In Figure 5C, I take man-hour growth rates for each industry, subtract the aggregate man-hour growth rate from them for each time period, and accumulate this relative man-hour growth rate, taking 1970 as the starting year. It can be seen that the group of industries that had higher TFP growth experienced faster growth in labor input allocation. That tendency weakens and is partially reversed in the 1990s: however, given the extent of price declines up to that point, this timing, and the speed of reversal of labor reallocation seems rather slow. For the group of industries with relatively low TFP growth, relative labor allocation has been either stable or declining over time.

As we have seen thus far, despite the big fall in the relative prices, high TFP growth portions of the electronics sector continued to attract labor. There is a sign of a reversal, but it only seems to be happening slowly. As the theory in the previous sub-section suggests, if labor mobility takes time, we should be observing worker re-allocation out of them, even before the Value TFP starts to fall, which is not the case in the data. What is behind this seemingly inefficient pattern? One explanation would be myopia or the limited life time of the current generation of workers, which makes their choice concerning which sector to work less forward looking. Another possibility is political economy. Once many workers are hired by a certain sector, it tends to have a larger political power, which makes it easy to press for policies in favor of such a sector. Yet another possibility is that there is an obstacle to workers flowing into new sectors which should be absorbing workers released from the

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<sup>9</sup> To check robustness of the results, I also tried eliminating the influences of the prices of the intermediate goods from the (gross) output deflator. The result tended to reinforce, rather than weaken, the argument in the main text.

<sup>10</sup> As the growth rates are defined as log differences, their cumulative values correspond to log differences compared to the starting year.



Source: Author's calculation based on the JIP 2012 data set.

Figure 5. Historical Evolution of Nine JIP Industries in Electronics

high TFP growth sectors. I will turn to this possibility in the next section.

#### **IV. Demand Factors and Inter-Sectoral Labor Allocation**

##### **1. Is the Price Mechanism at Work? Evidence from the Municipality Level Data on Elderly Care**

As we have already seen, in recent years in Japan, the sectors that have been expanding rapidly in terms of the man-hour share have been a part of the services industry. It is easy to see that they were not expanding because of fast productivity growth. For example, according to the JIP data base, for the seven JIP industries that belong to the “Medical and Social Welfare” intermediate sector, their TFP growth rates were about the same as that of the macro economy, or, if anything, lower (if we take the simple average of the seven industries, the long run TFP growth rate was 0.4% lower annually than that of the entire economy). It is thus clear that their expansion was mostly demand driven. And, at least as far as this intermediate sector is concerned, the most important factor behind the demand expansion was the population aging. The question is whether the sector was expanding its hiring fast enough to keep up with the demand increases.

I will utilize data at the municipality level on the social welfare services to shed some light on the issue. As this type of service (e.g. elderly care) is essentially non-tradable, even across narrowly defined regions, studying the demand-supply relationship on a region by region basis is justified (which is not the case with rice or automobiles or internet-based services).

The first ever Economic Census of Japan, conducted in 2009, gives us information about the number of employees at the municipality level at a much disaggregated level (at the 3 digit level of the Japan Standard Industrial Classification). From this data set, I downloaded the statistics for the “Old-age Welfare and Elderly Care.” I also obtained data on the population by age group at the municipality level from the 2010 Population Census. Excluding missing observations, I ended up with 1844 observations.<sup>11</sup>

I computed the ratio of the number of employees of the above-mentioned industry to the population over 65 years old. The mean across the municipalities was 5.2%. There is a fair amount of variation in this ratio across the municipalities: the standard deviation was 2.2%. In Shioji (2013b), I show that this variation in the ratio cannot be explained by the different degrees of urbanization (measured by the population density). Thus, there is a fair amount of heterogeneity in the relative strengths of demand and supply across the regions. The question is whether such a demand-supply relationship is reflected in the price, as would be normally expected in an efficiently functioning market.

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<sup>11</sup> For the Ordinance-Designated Cities (as of 2009), I used the ward-level data. Within the short period of time between the Economic Census on July 1, 2009, and the Population Census on October 1, 2010, there was a massive wave of mergers between municipalities. Therefore, the sample size of my analysis is constrained by that of the latter census.

For that question, I turn to the third data set, the National Survey of Prices conducted by the Ministry of Internal Affairs and Communications in 2007 (the survey was terminated after this year). It contains data on two types of fees for elderly care, one for a stay at a day care center, and the other for a home visit by a care giver, for large municipalities. According to this data, for the former, the price is 840 yen almost everywhere. In Hokkaido, for example, it is 840 yen everywhere but in its capital, Sapporo, where it is marginally higher at 855 yen. Exceptions are big cities such as Tokyo where the prices are higher (however, as I emphasized previously, the relative strength of demand and supply is unrelated to the degree of urbanization). The situation is similar for the latter types of fees. It seems safe to conclude that the price mechanism is not at work, most likely due to regulations, for this sector.

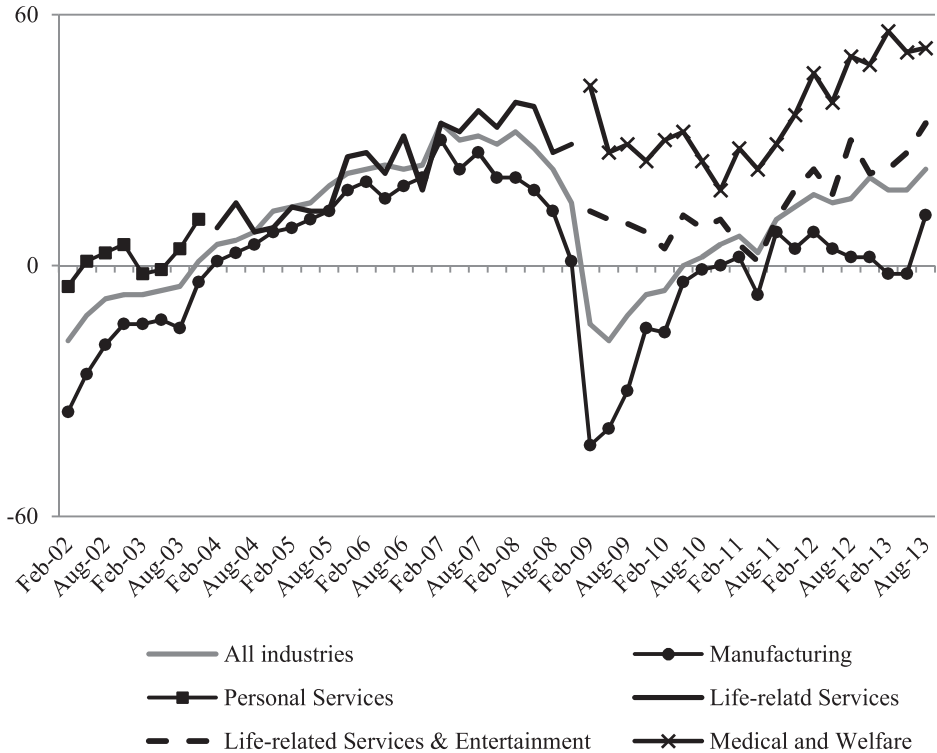
## 2. Persistent Labor Shortage: Evidence from Time Series Data

This sub-section aims to demonstrate that the lack of price adjustment is causing a persistent excess demand for workers in the intermediate sector “Medical and Social Welfare,” despite its rapid expansion in hiring, presumably because regulations are suppressing the service prices at artificially low levels. One difficulty in presenting evidence to support such an idea is that, until the revision of the Japan Standard Industry Classification (JSIC) in March 2002, this sector did not exist as an independent sector in the Japanese statistics. Accordingly, in the following discussion, I will try my best to gain insights into long run tendencies, by mixing evidence based on old classifications with more recent ones.

In the Survey of Labor Economy Trend conducted by the Ministry of Health, Labor and Welfare, each plant or office is asked about its perception about the state of labor shortage (or excess). Each respondent is asked to choose from “very much in shortage,” “somewhat in shortage,” “appropriate,” “somewhat in excess” and “very much in excess.” The Percentage of respondents who selected each answer are reported. I have decided to create a diffusion index (“DI”) based on those percentages, according to the following formula:

$$DI = 2*(\text{very much in shortage}) + (\text{somewhat in shortage}) \\ - (\text{somewhat in excess}) - 2*(\text{very much in excess})$$

Figure 6 plots evolution of this DI for various categories, starting 2002. The thick solid line is for the overall average. Until 2008, the index is trending upwards, reflecting the modest but long period of recovery. But as the Global Financial Crisis hits, labor suddenly turns into excess. Since then, we see a very gradual process of recovery. The solid line with black dots is for manufacturing. The tendency is very similar to the overall average, except that its level is slightly lower. The other line(s) contains discontinuities due to changes in industrial classifications in the original data. The line corresponds to “Personal Services” for 2002 and 2003, and “Living-related and Personal Services” between 2003 and 2008. And then, this group gets disaggregated into “Medical and Welfare” and “Living-related and



Source: Author's calculation based on the *Survey of Labor Economy Trend*.

Figure 6. Labor Shortage/Excess DI by Industry

personal services and entertainment” (and several other smaller categories) since 2009, and that is why there are two lines after this year.

If we first focus on the period after 2009, perception of labor shortage is much stronger for “Medical and Welfare” than both the overall average and “Living-related and personal services and entertainment.” The data indicates a severe labor shortage for “Medical and Welfare,” even in the middle of the Global Financial Crisis. Assuming that a similar relationship held between “Medical and Welfare” and “Living-related and personal services and entertainment” prior to 2009, we can conjecture that there has been a chronic labor shortage in the former sector for a long period of time.<sup>12</sup>

<sup>12</sup> Since the fiscal year 2012, the Employment Referrals for General Workers published by the same Ministry started publishing the data for the care service occupation and the health and medical service occupation. According to this statistics, in fiscal year 2012, the active job openings to applicants ratio was 0.74 for all the occupations, but the ratio was 1.80 for care services and 1.22 for health and medical services. This is another indication of a serious labor shortage in this sector.

Table 1. Comparison of Wages

	2001	2005	2012
<u>Male, high school graduates</u>			
All industries			
age 25–29	275	265	258
age 30–34	316	307	293
Health and Social Welfare			
age 25–29	198	210	212
age 30–34	232	229	235
<u>Female, high school graduates</u>			
All industries			
age 25–29	209	199	198
age 30–34	221	214	208
Health and Social Welfare			
age 25–29	210	195	192
age 30–34	221	205	197

Source: Author's calculation based on the *Basic Survey on Wage Structure*.

### 3. Insufficient Labor Mobility: Evidence from Wage Data

We saw in section II that there has been a vast reallocation of labor toward the “Medical and Welfare” sector in Japan. However, the previous sub-section shows that, despite this, labor is actually flowing into the sector too slowly compared to the speed of the expansion of the demand, resulting in a persistent labor shortage in this sector. One could hypothesize that this is due to the lack of an efficiently functioning price mechanism, as we saw in sub-section 1. That is, as the prices of the services do not go up flexibly, workers are not offered wages that are high enough to induce a sufficient amount of worker inflows to meet the expanding demand. In this last sub-section, I shall give an overview of the evolution of wages in this sector.

Table 1 is based on the Basic Survey on Wage Structure by the same Ministry, and compares wages (scheduled cash earnings) paid to high school graduates, for the age groups 25–29 and 30–34, by gender, between the “Social Insurance, Social Welfare and Elderly Care” (for 2001 only, it is “Social Insurance and Social Welfare”) industry and the average of all industries.

Table 1 shows that, despite the labor shortage, male workers in this sector are receiving far lower wages compared to the overall average, with no apparent sign toward a rapid catch-up. Female workers in this sector are receiving about the same as the average, which means that the expansion of demand has not resulted in a significant wage premium for these workers. It seems quite conceivable that this apparent lack of wage adjustment has been behind the long-lasting labor shortage in this sector.



## V. Conclusions

In this paper, we have seen that, in recent years in Japan, the service sector, especially the three expanding sectors (“Medical and Social Welfare,” “Business Services” and “Information Services”) have been absorbing workers while Agriculture, etc. and Manufacturing have continued to release them. On the other hand, productivity increase was more prominent in manufacturing, especially electronics. This paper emphasized that this does not necessarily mean that more workers should have been allocated to manufacturing. If productivity increase causes more than proportionate declines in prices, it becomes optimal to reduce labor allocated to such a sector. According to the analysis in this paper, this was indeed the case with electronics in Japan. What is truly troubling is that, despite this, labor movement out of the industry was slow.

On the other hand, we can think of the observed inflow of labor into the above three expanding sectors to be mostly demand-driven. In the second half of the paper, I have focused mostly on the Social Welfare sector to study the implications of the labor movement. We have seen that, despite the rapid expansion in hiring, this sector has been in a chronic labor shortage. One reasonable explanation is the lack of a well-functioning price mechanism. Despite growing demand due to population aging, service prices in this sector have not responded fast enough, which makes it difficult to absorb workers from other sectors fast enough.

If the above hypothesis is more rigorously supported by future studies, it implies that the Value Marginal Product of Labor, where value is evaluated not on the actual price basis but on the basis of utility, is actually high in the social welfare sector. Promoting faster labor reallocation into such a sector would be an important policy objective, despite the fact that it may not help increase GDP evaluated at the (distorted) price basis.

### Appendix A: Definitions of the Intermediate Sectors

In the main text, for the sake of exposition, the author has defined some “intermediate” sectors that belong to the broadly-defined Services sector, by aggregating several industries in the JIP 2012 Data Base. Here is the list of correspondence between the intermediate sectors in this paper and the JIP industries.

- Medical and Welfare: “Medical” (Private, Public and Non-Profit),  
“Hygiene” (Private and Non-Profit and Public), and  
“Social Insurance and Social Welfare” (Public and Non-Profit).
- Business Services: “Advertising,” “Rental of Office Equipment and Goods,”  
“Automobile Maintenance Services,” and “Other Services for Businesses.”
- Information Services: “Entertainment,” “Broadcasting,”  
“Information Services and Internet-based Services,” “Publishing,” and  
“Video Picture, Sound Information, Character Information Production and

- Distribution.”
- Construction: “Construction” and “Civil Engineering”
- Utility: “Electricity,” “Gas, Heat Supply,” “Waterworks,”  
 “Water Supply for Industrial Use” and “Waste Disposal”
- Distribution: “Wholesale” and “Retail”
- Finance: “Finance,” “Insurance,” “Real Estate,” and “Housing”
- Transportation and Communication: “Railway,” “Road Transportation,”  
 “Water Transportation,” “Air Transportation,” “Other Transportation and Packing,”  
 “Telegraph and Telephone,” and “Mail.”
- Personal Services: “Eating and Drinking Places,” “Accommodation,”  
 “Laundry, Beauty and Bath Services,” “Other Services for Individuals.”
- Education and Research: “Education (Private and Non-profit),” “Research (Private),”  
 “Education (Public),” “Research (Public),” and “Research (Non-profit).”
- Other Types of Services: “Other Public Services,” “Public Administration,”  
 “Other (Non-profit),” and “Activities not Elsewhere Classified.”

## Appendix B: A Two-Sector Model of an Open Economy with Endogenous Price Elasticity of Demand

This appendix overviews the two sector model of Shioji (2010), which introduces the concept of (relative) satiation into the utility function. This specification implies that the price elasticity of demand for a type of goods changes endogenously with the amount of its consumption. Concretely, it adopts the Dotsey-King type utility function which is sometimes used in the literature on the New Keynesian Macroeconomics (refer to Dotsey and King [2005] and Shirota [2007]).<sup>13</sup>

Consider an economy with two types of goods, 1 and 2. Household utility, denoted  $C$ , depends on consumption of the two goods,  $C_1$  and  $C_2$ , according to the following implicit form:

$$\frac{1}{2} \left[ D \left( \frac{C_1}{C} \right) + D \left( \frac{C_2}{C} \right) \right] = 1, \quad (\text{A1})$$

where

$$D \left( \frac{C_i}{C} \right) = \frac{1}{(1+\eta)\xi} \left[ (1+\eta) \left( \frac{C_i}{C} \right) - \eta \right]^\xi + \left[ 1 - \frac{1}{(1+\eta)\xi} \right], \quad (\text{A2})$$

and

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<sup>13</sup> The Dotsey-King type utility belongs to the group of utility functions proposed by Kimball (1995); it is sometimes used to derive the quasi kinked demand curve, which strengthens the degree of real rigidities in macro models.

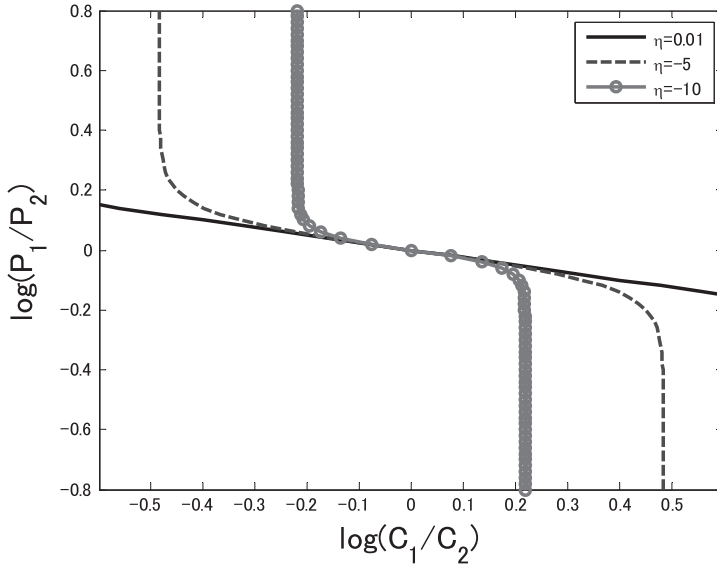


Figure A1. Compensated Demand Curves, in Logarithmic Scales

$$\xi = (\varepsilon(1+\eta) - 1) / (\varepsilon(1+\eta)), \quad \varepsilon > 1.$$

In the above,  $\eta$  can be either positive or negative, but, in what follows, I shall assume it to be negative. The case in which  $\eta = 0$  corresponds to the case of the standard CES utility function with the elasticity of substitution between the two goods being  $\varepsilon$ . Therefore, I shall call  $\varepsilon$  the “substitutability” parameter. As we shall see, the absolute value of  $\eta$  determines how quickly satiation occurs as demand increases. Therefore, I shall call  $\eta$  the “satiability” parameter.

To understand the nature of this function, consider deriving the compensated demand function, namely how the relative demand for the two goods changes when the relative price between them changes, holding constant the utility level. Figure A1 takes the log of relative price on the vertical axis and the log of relative demand on the horizontal axis. Thus, the inverse of the slope of the curve depicted in the figure is the elasticity of substitution. In the graph, I fix the substitutability,  $\varepsilon$ , at 4. In the graph, three curves are drawn corresponding to three different degrees of satiability. The solid line depicts the case in which  $\eta = 0.01$  (that is, with almost zero satiability), the dotted line corresponds to the case in which  $\eta = -5$  (or an intermediate degree of satiability), and the solid curve with circles is drawn under the assumption of  $\eta = -10$  (which implies a high degree of satiability). In the middle of the graph, when the amounts of consumption of the two goods are roughly equal, the slopes of the curves are essentially independent of the satiability; they basically depend only on the substitutability parameter. That is why the slope is the same for all three. Starting from this situation, let us gradually move to the right, by increasing the relative consump-

tion of goods 1. Under higher degree of satiability, the curve becomes steeper faster. That is, the elasticity of substitution goes down quickly. This reflects that, under this specification, as  $C_1$  increases, satiation sets in very quickly. As a consequence, if we wish this consumer to willingly increase  $C_1$  further, we would have to cut the price of goods 1 steeply.

Consider an equilibrium model under such a preference specification. Assume a small open economy. We assume that goods 1 are tradable goods while goods 2 are non-tradable. Goods 1 are produced from imported raw materials and labor, while the production of goods 2 requires labor only. Let us normalize the price of the raw materials (which will be called goods 0) to be 1. We shall denote the price of goods 1 as  $p_1$ , which is determined in the world market and is exogenous to this country. The price of goods 2,  $p_2$ , is endogenously determined. Denoting the amount of labor and raw materials devoted to production go goods 1 as  $L_1$  and  $X_0$ , respectively, the production function for goods 1 is specified as follows:

$$Y_1 = A_1 L_1^\alpha X_0^\delta \quad 0 < \alpha < 1, \quad 0 < \delta < 1, \quad \alpha + \delta < 1. \quad (\text{A3})$$

Letting labor input into the production of goods 2 be denoted by  $L_2$ , the production function for those goods is:

$$Y_2 = A_2 L_2^\beta \quad 0 < \beta < 1. \quad (\text{A4})$$

Assuming a trade balance for each period,

$$X_0 = p_1 \cdot (Y_1 - C_1). \quad (\text{A5})$$

Using the profit maximization condition for the goods 1 producing firms, which requires its value marginal product to be equal to the price, (A5) can be rewritten as

$$C_1 = (1 - \delta)Y_1 = (1 - \delta)[\delta p_1]^{\delta/(1-\delta)} \{A_1 L_1^\alpha\}^{1/(1-\delta)}. \quad (\text{A6})$$

On the other hand, as goods 2 are non-tradable, we must have

$$C_2 = Y_2 = A_2 L_2^\beta. \quad (\text{A7})$$

Finally assuming a fixed labor supply,

$$L = L_1 + L_2 \quad (\text{A8})$$

has to hold, where  $L$  denotes the total amount of labor supply which is a positive constant. From the above conditions, we can derive the optimal inter-sectoral labor allocation. Figure A2 depicts such optimal allocation as a function of relative productivity between the sectors.<sup>14</sup> As in Figure A1, the three curves correspond to three different degrees of satiability.

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<sup>14</sup> In this example, parameter values are chosen in such a way that the two conditions,  $(1 - \delta)[\delta p_1]^{\delta/(1-\delta)} = 1$  and  $\alpha / (1 - \delta) = \beta$  are always satisfied. Together, they imply  $C_1 = A_1^{1/(1-\delta)} L_1^\beta$ , which makes the computation easier. Refer to Shioji (2010) for the actual set of parameter values used.

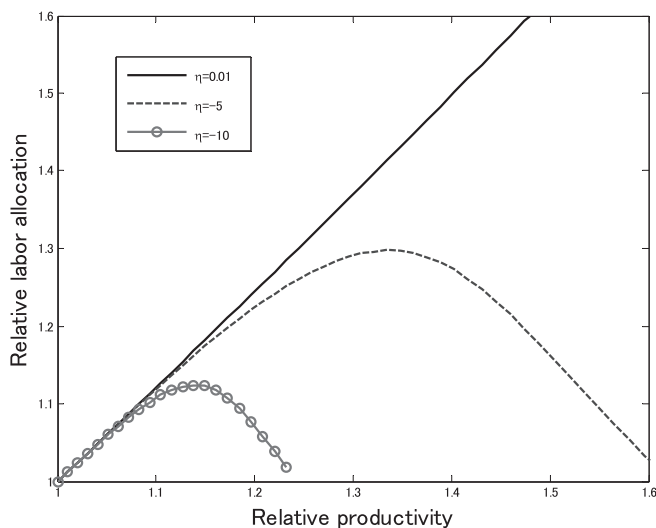


Figure A2. Relative Productivity across the Sectors and the Optimal Labor Allocation

As is clear from the figure, when the productivity is equal across the sectors, labor is split evenly between the sectors. Starting from this situation, imagine that the productivity of sector 1 improves slightly. As demand is still not satiated for either type of goods, consumers wish to purchase more of goods 1, whose price has gone down (as long as the substitutability parameter is large, as is the case in this numerical example). This induces workers to move to sector 1. However, if the sector’s productivity improves further, unless the satiability parameter is close to zero, demand satiation sets in, and the price of goods 1 starts to fall rapidly. This results in a decline in the value marginal product of labor in this sector. This induces workers to move back to sector 2 from sector 1. As the figure indicates, this reversal happens earlier when the satiability parameter is larger.

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# Industrial Action and Liability in Japan: A Legal Overview

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This article gives an overview of Japanese law on strikes and other industrial actions, focusing on the issue of their legality and liability for illegal action. While the number of industrial actions has decreased markedly in recent years, Japanese workers have a constitutional right to act collectively, which includes the right to strike. The Labor Union Act clarifies the right by providing for immunity for participating workers from criminal punishment, civil liability, and termination, as well as any other unfavorable treatment. However, the action in question must be deemed “proper” in order to enjoy these protections. Devoid of statutory guidelines, the courts usually look into the objective and the manner of the action, as well as the parties to the act and procedural questions involved, in deciding whether the action was proper or not. When a strike goes beyond the border of properness, the strikers and their union may be ordered to pay damages to the employer. It should also be noted that public sector employees are prohibited from engaging in strikes or other collective actions, although their number at the national level has decreased drastically since the 1980s as a result of privatization.

## I. Introduction

Let me start with a candid observation. The issue of industrial action is not attracting much attention in Japan, primarily because we see very little industrial action today. Except for sporadic strikes by airline employees, there is almost no report of strikes or other industrial actions. Even during the period of annual wage negotiations called *shunto* (spring labor offensive), only a handful of strikes occur, typically at some local bus companies that do not affect many people. In fact, strikes have become so rare in recent years that, according to half-joking news reports, union officials are not sure if they will remember how to call a strike when it becomes necessary. Still, under the constitutional guarantee of workers’ right to act collectively, it is firmly established that Japanese workers and their unions are immune from criminal or civil liability, insofar as their collective actions are “proper.” And it is obvious that a strike to oppose the employer’s plan to, say, close a plant and dismiss the employees will be deemed proper, which I understand is not the case in Korea.

In the following pages, I will describe the legal aspects of Japanese industrial actions after reviewing briefly the historical trend of collective labor disputes. Given the scarcity of recent materials, most of the court decisions and academic arguments mentioned herein will be from the last century.<sup>1</sup>

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## II. Trends of Collective Labor Disputes in Japan

Collective labor disputes have decreased markedly in the past decades in Japan, as shown in Tables 1 and 2. In 2013, there were only 507 cases of such disputes<sup>2</sup>—the lowest figure since the current method of survey was adopted in 1957. The number of labor disputes accompanying strikes or other industrial action was 71, remaining below 100 for five consecutive years. There were 31 cases of labor disputes accompanying strikes for a half-day or longer, in which 1,683 workers participated in the aggregate. By contrast, those numbers were 208 and 37,528, respectively, in 1995. These numbers look large in the eyes of today, but there were far more strikes in the preceding years.

The Japanese labor movement, which gained legal foundations after the end of World War II, had volatile formative years in the late 1940s and the early 1950s. It was streamlined under *Sohyo*, or the General Council of Trade Unions of Japan, and a couple of other competing organizations by the middle of the 1950s, when the rapid growth of the national economy began and the practice of annual *shunto* negotiations started. Under this post-war framework of labor relations, the number of industrial actions increased throughout the 1960s. The peak was reached in 1974, when the cost of living skyrocketed after the first oil crisis. There were 10,462 cases of collective labor disputes in that year, among which 9,581 accompanied industrial action. Strikes lasting a half-day or longer occurred in 5,197 cases, in addition to 6,378 cases of shorter strike. The next year, 1975, was also notable in that the unions of the then Japanese National Railways (JNR) staged an unprecedented nation-wide strike in late November, halting its entire operation for a week. The strike, generally referred to as the “strike for a right to strike” because it was aimed at legal reform to legalize strikes in the public sector, was a bitter failure. This certainly cast a shadow of doubt about the effectiveness of a strike in the minds of labor and management, as well as the general public. However, the number of labor disputes and strikes remained rather high until the middle of the 1980s, although shorter strikes became more prevalent than longer ones in the later years.

The decrease of collective labor disputes in the late 1980s may be explained by a number of factors including the continued decline of unionization rate, but probably the

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<sup>1</sup> For an overview of the Japanese labor law including that of collective actions, see Kazuo Sugeno, *Japanese Employment and Labor Law* (Translated by Leo Kanowitz), Carolina Academic Press, 2002, pp. 616–666; Tadashi Hanami & Fumito Komiya, *Labour Law in Japan*, Wolters Kluwer, 2011, pp. 182–196. Those who can read Japanese language will find the following two textbooks helpful. Kazuo Sugeno, *Rodo-ho (10th ed.)*, Kobundo, 2012; Satoshi Nishitani, *Rodokumiai-ho (3d ed.)*, Yuhikaku, 2012. Prof. Sugeno’s book is widely regarded as the most authoritative in this field, and its earlier version was translated into English as cited above. Prof. Nishitani is also a highly respected scholar and shows a more understanding view of the workers’ position.

<sup>2</sup> Ministry of Health, Labor and Welfare, *Survey on Labor Disputes Statistics (Rodo-sogi tokei-chosa)*. Labor disputes are defined in this survey as collective labor disputes either accompanying acts of dispute (strikes, lockouts, etc.) or in which help of the third party such as the Prefectural Labor Relations Commission was sought.



Table 1. Number of Collective Labor Disputes 1960–2013 (Selected Years)

Year	Union Density (%)	Total (Collective) Labor Disputes	Labor Disputes with Industrial Actions	Strikes	
				Half-day or longer	Shorter than half-day
1960	32.2	2,222	1,707	1,053	—
1965	34.8	3,051	2,359	1,527	871
1970	35.4	4,551	3,783	2,256	2,356
1975	34.4	8,435	7,574	3,385	5,475
1980	30.8	4,376	3,737	1,128	3,038
1985	28.9	4,826	4,230	625	3,834
1990	25.2	2,071	1,698	283	1,533
1995	23.8	1,200	685	208	549
2000	21.5	958	305	117	216
2005	18.7	708	129	50	99
2010	18.5	682	85	38	56
2013	17.7	507	71	31	49

Source: Ministry of Health, Labor and Welfare, *Survey on Labor Disputes Statistics*.

Table 2. Number of Strikes 1960–2013 (Selected Years)

Year	Total (Collective) Labor Disputes	Strikes				
		Half-day or longer			Shorter than half-day	
		Number	Participants	Days Lost	Number	Participants
1960	2,222	1,053	917,454	--	--	--
1965	3,051	1,527	1,670,285	5,474,681	871	854,437
1970	4,551	2,256	1,719,551	3,769,956	2,356	1,294,428
1975	8,435	3,385	2,731,209	7,974,133	5,475	2,449,088
1980	4,376	1,128	562,752	998,165	3,038	1,355,749
1985	4,826	625	123,257	256,919	3,834	1,266,571
1990	2,071	283	84,289	140,386	1,533	638,221
1995	1,200	208	37,528	72,813	549	192,549
2000	958	117	15,312	35,050	216	70,561
2005	708	50	4,119	5,629	99	23,746
2010	682	38	2,480	23,244	56	19,016
2013	507	31	1,683	7,035	49	11,359

Source: Ministry of Health, Labor and Welfare, *Survey on Labor Disputes Statistics*.

most important being the privatization of the three public corporations in 1985 (telegraph & telephone, tobacco & salt) and 1987 (national railways). The employees of the new, privatized companies were legally eligible to strike, but the majority of them chose to belong to the less militant unions. And the larger picture of Japanese industrial relations itself was transformed substantially under the leadership of moderate private-sector unions, culminating in the formation of a giant umbrella organization called *Rengo*, or the Japanese Trade

Table 3. Collective Labor Disputes by Principal Demands 1960–2013 (Selected Years)

Year	Total (Collective) Labor Disputes	Wage Increase	Semi-annual Bonuses	Change of Working Hours	Objection to Dismissals	Objection to Shutdown, Contraction of Business, etc.
1960	2,222	805	638	16	93	15
1970	4,551	2,131	1,260	16	137	28
1980	4,376	3,236	722	48	112	26
1990	2,071	954	1,123	39	40	16
2000	958	310	224	7	147	32
2010	682	91	89	11	174	24
2013	507	71	60	8	108	7

Source: Ministry of Health, Labor and Welfare, *Survey on Labor Disputes Statistics*.

Union Confederation, in 1989.

Then came the bursting of the bubble economy in the early 1990s and the long slump that followed. Most unions continued to engage in wage negotiations each spring, but it became less frequent for them to resort to industrial action. It is also noteworthy that as for the subject of labor dispute, “wage increase” dropped drastically in number and became even fewer than “objection to dismissal” (Table 3). In any event, collective labor disputes and strikes have become very scarce in these years as described above. This marks a contrast to the increase in individual labor disputes in the same period, which prompted the enactment of new statutes—the Act on Promoting the Resolution of Individual Labor Disputes of 2001 and the Labor Tribunal Act of 2004—to deal with them more effectively.

### III. Constitutional and Statutory Framework of Industrial Actions

#### 1. Historic Development

Japanese labor unions started to be formed in the late 19th century, but they had to live in a hostile legal environment. Especially notorious was the Public Order and Police Law of 1900, which criminally punished even peaceful inducement of a work stoppage in a genuine labor dispute. Workers also could be terminated or otherwise retaliated against by the employer when they joined a labor union or participated in its activities. The conditions somewhat improved in 1925, when the most intrusive provision of the Public Order and Police Law was abolished as the society became more accommodative of labor movements. However, there were other laws and regulations the police could utilize, often with an unduly expansive reading of the relevant legal text, to suppress workers’ collective actions. Attempts were made repeatedly in the 1920s to adopt a law on labor unions to legalize their establishment and activities with appropriate restraint, but they ran aground each time, only to disappear completely in the 1930s under the wartime mobilization regime.

It was after the end of World War II, and during the American-led Allied Occupation

of Japan (1945–52), that a drastic change was brought about. The (old) Labor Union Act<sup>3</sup> was enacted in December 1945, providing criminal and civil protection for legitimate union activities, including strikes, for the first time in history. Then the Labor Relations Adjustment Act of 1946 (hereinafter LRAA) established the procedures for adjustment of collective labor disputes. The Constitution of Japan, which contains a guarantee of workers' right to act collectively, was adopted in the same year and took effect in May 1947. The current Labor Union Act (hereinafter LUA) was newly enacted in 1949. It retained, and slightly strengthened, the protection for union activities under the 1945 Act. Since then, there has been no change to this constitutional and statutory framework for more than 60 years.

## 2. Relevant Provisions

### (1) Constitution

The Constitution of Japan guarantees workers' collective rights as follows.

*Article 28. The right of workers to organize and to bargain and act collectively is guaranteed.*

This is popularly known as the guarantee of the three basic rights of workers – to organize, to bargain collectively, and to act collectively. It is undisputed that the right to “act collectively” includes the right to strike.

In the process of making the Constitution, the draft prepared by the Japanese side did not contain any of these rights. It is well known today that a branch of the occupational forces wrote the present Article 28 in secret and then handed it, together with other progressive provisions, to the Japanese government.

Most scholars agree that Article 28 has “direct” effects. In contrast to paragraph 2 of Article 27, which says that standards for wages, hours, rest and other working conditions shall be fixed by law, Article 28 does not have to rely on additional legislation. Of course, in reality, the Labor Union Act does exist to materialize and better implement the workers' rights under Article 28. However, even without such an act, unions and workers could invoke the constitutional provision directly to enjoy the criminal and civil protection for their proper activities.

### (2) Labor Union Act

The LUA provides three kinds of protection to workers when they engage in industrial action.<sup>4</sup> They are, respectively, (a) immunity from criminal liability, (b) immunity from

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<sup>3</sup> It was common to cite this act in English as the Trade Union Law of 1945. However, the Japanese government decided in 2006 to use Americanized expressions in the translation of Japanese laws. I will follow this rule for the post-WWII statutes, including the Labor Relations Adjustment Act of 1946 and the Labor Union Act of 1949.

<sup>4</sup> I will concentrate on industrial action of the workers' side, but there has been a debate whether

civil liability, and (c) protection from unfavorable treatments.

Firstly, immunity from criminal liability means the action in question is not punishable. The participants are therefore free from criminal prosecution and conviction. Article 1, paragraph 2 of the LUA provides for this protection as follows.

*Article 1, paragraph 2. Article 35 of the Penal Code (Act No. 45 of 1907) shall apply to collective bargaining and other acts of labor unions which are proper and have been performed for the attainment of the purposes of the preceding paragraph. Provided, however, that in no case shall exercises of violence be construed as proper acts of labor union.*<sup>5</sup>

This is not a very intelligible provision, but Article 35 of the Penal Code declares that an act performed in accordance with laws and regulations or in the pursuit of lawful business is not punishable. According to a common explanation, a doctor who performs an operation on a patient is not subject to criminal liability, even though his/her act looks like a bodily injury, because it is a legitimate business and involves no illegal element. Likewise, strikes and other acts of dispute by workers do not constitute a crime if they are proper and have been performed for the attainment of the purposes the LUA.<sup>6</sup>

Secondly, Article 8 of the LUA relieves the civil liability of unions and its members for proper acts of dispute as follows.

*Article 8. An employer may not make a claim for damages against a labor union or a union member for damages received through a strike or other acts of dispute which are proper acts.*

Thus, the employer cannot recover damages suffered from a proper strike, either on

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the employer has a “right” to engage in industrial action in the form of a lockout. Although the LUA and the Constitution are both silent on this point, the Supreme Court has affirmed the existence of such a right in a very limited situation where the employer has been brought to a dire situation by the union’s fierce acts of dispute. Marushima Suimon case, Supreme Court, Judgment of April 25, 1975, *Minshu* 29–4–481.

<sup>5</sup> There were some changes to the semi-official translation of the LUA in 2006, when the government changed the English names of this and other statutes (See note 3). The word “proper” was replaced by “justifiable” in this article, and in Article 8 and 7 (1) as well. However, I stick to the former word because it seems to convey more appropriately the positive nuance of the original Japanese word (*seito-na*).

<sup>6</sup> Paragraph 1 of the same article provides that the purposes of the LUA are “to elevate the status of workers by promoting their being on equal standing with their employer in their bargaining with the employer; to defend the exercise by workers of voluntary organization and association in labor unions so that they may carry out collective action, including the designation of representatives of their own choosing to negotiate working conditions; and to promote the practice of collective bargaining, and procedures therefore, for the purpose of concluding collective agreements regulating relations between employers and workers.”

breach of contract or tortious grounds. On the other hand, the strikers are not paid wages for the wasted time, staging a game of endurance between the labor and the management.

Thirdly, workers are protected from termination and other unfavorable treatment by the employer, as is shown in Article 7, item 1 of the LUA.

*Article 7. The employer shall not commit the acts listed in any of the following items:*

*(1) to discharge or otherwise treat in a disadvantageous manner a worker by reason of such worker's being a member of a labor union, having tried to join or organize a labor union, or having performed proper acts of a labor union...*

Such a treatment constitutes an “unfair labor practice” of the employer, along with refusal to bargain (item 2), domination and interference with the formation and administration of a union (item 3), and retaliation against workers’ filing of a charge with, or otherwise cooperating with, the Labor Relations Commission (item 4).

The critical phrase of “having performed proper acts of a labor union” was added in 1946 to the old Labor Union Act and was carried over to the LUA of 1949. A significant difference between the two Acts is that the Labor Relations Commission can issue a remedial order to the employer under the current Act.<sup>7</sup> In case of a discharge, the Prefectural Labor Relations Commission typically orders that the worker be reinstated with back pay to the former position. The employer may appeal the order to the Central Labor Relations Commission and/or to the competent district court, which may end up eventually with a decision of the Supreme Court.

This system was modeled after a U.S. statute—the National Labor Relations Act of 1935—but there are considerable differences as well. One such difference is that in Japan the Labor Relations Commission is not the exclusive venue for redress. In addition to, or instead of, the proceedings at the Commission, the worker may sue the employer directly before the district court, claiming that the discharge is illegal and therefore null and void. In this case, the court does not review the order of the Labor Relations Commission but decide *de novo* like any other civil case. If the court finds that the discharge in fact violated Article 7 (1), it usually declares that the employment contract between the employer and the worker is still alive, and makes the employer pay the wages due after the illegal termination.

### 3. Prohibition of Strikes in the Public Sector

In spite of the guarantee of the right to act collectively found in Article 28 of the Constitution, workers in the public sector are prohibited from resorting to acts of dispute. I will

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<sup>7</sup> Under the old Act the employer was subject to criminal punishment for the violation. The Labor Relations Commission had the authority to investigate and send the case to the prosecutor’s office but could not issue an order to the employer.

not go into details here,<sup>8</sup> but a short overview would be appropriate because this has been a subject of heated controversy.

At the national level, the National Public Service Act prohibits strikes, slowdowns, and other acts of dispute by national public servants across the board (Article 98, paragraph 2) and there is even a provision to punish the instigator of such acts. While most of the employees of the national government are governed by the National Public Service Act with respect to their labor relations, some of them who belong to “specified independent administrative agencies” are placed under a different statute—the Act on Labor Relations of Specified Independent Administrative Agency<sup>9</sup>—which is somehow closer to the LUA of the private sector as regards unions and collective bargaining. However, this Act also flatly prohibits strikes, slowdowns, and other acts of dispute (Article 17, paragraph 1), although it does not criminally punish the instigator.

There is an analogous pattern at the local level. There are two different statutes, that is, the Local Public Service Act and the Local Public Enterprise Labor Relations Act, the latter being much smaller in the number of covered employees and more resembling the LUA in contents. They both prohibit strikes and other acts of dispute, however, and the slight difference is the lack of criminal punishment for the instigator under the latter Act.

At one time, the Supreme Court took a remarkably progressive position to construe the scope of such prohibition quite narrowly in deference to Article 28 of the Constitution.<sup>10</sup> This judicial trend was only short-lived, however. The Court held repeatedly in the following years, reversing itself, that the broad prohibition should be given a literal meaning and it is constitutional as such.<sup>11</sup> Thus, despite repeated criticism from academics, it is firmly established in Japanese law that a strike is automatically regarded as illegal and improper in the public sector and the workers are therefore outside of the above-mentioned three kinds of protection.

In the meantime, the public sector, especially at the national level, shrank in size considerably as a result of privatization. The three public corporations were privatized in the 1980s as described earlier in II, and so was the postal service, which used to be by far the largest national enterprise, in 2007.<sup>12</sup> The workers of the newly privatized companies have

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<sup>8</sup> For a more thorough picture of Japanese public sector labor relations law, see Ryuichi Yamakawa, “Japan’s Collective Labor Relations Law in the Public Sector: Constitutional Conflict between Union Rights and Democracy,” 34 *Comparative Labor Law & Policy Journal* 349 (2013).

<sup>9</sup> From April 2015, the specified independent administrative agencies will be reorganized into “administrative execution” agencies. The name of the Act is to be changed accordingly, though its substantive provisions will remain the same.

<sup>10</sup> Zentei-Tokyo-chuyu case, Supreme Court, Judgment of October 26, 1966, *Keishu* 20–8–901; Zen-shiho Sendai case, Supreme Court, Judgment of April 2, 1969, *Keishu* 23–5–685.

<sup>11</sup> Zen-norin case, Supreme Court, Judgment of April 25, 1973, *Keishu* 27–4–547; Zentei-Nagoya-chuyu case, Supreme Court, Judgment of May 4, 1977, *Keishu* 31–3–182.

<sup>12</sup> The workers of the public corporations and the national enterprises were covered by the equivalent of the Act on Labor Relations of Specified Independent Administrative Agency before privatization. As of 1984, there were about 740,000 workers at the three public corporations and 310,000 postal

a full-fledged right to resort to strikes and other acts of dispute under the LUA, even though they rarely exercise this right in reality.

#### **IV. Scope of Proper Industrial Actions**

##### **1. General**

Industrial actions must be “proper” in order to be protected by the LUA, and the Constitution is understood to be predicated on the same requirement. However, there is no definition of properness in the LUA except the proviso of Article 1, paragraph 2, which says that exercises of violence cannot be proper acts of labor union. The courts usually look into the objective and the manner of the action in question and, relying on *shakai-tsunen* or generally accepted norms of the society, decide whether it was proper or not. Sometimes they also consider the parties to the act or procedural questions involved.

The standard of properness can vary according to different purposes of the LUA, though this happens only in relatively few instances. For example, a collective action may be regarded as not proper with regard to immunity from civil liability even when it is still within the range of properness for the purpose of immunity from criminal liability.

##### **2. Objective of the Action**

There is no question that labor unions may call a strike regarding proper issues of bargaining with the employer, such as wages, hours, and other conditions of employment. They include treatments of particular employees. When an employee who belongs to the union is discharged or disciplined, the demand that the measure be rescinded would be a proper objective of a strike. Matters between the employer and the union, such as the renting of office space to the union on the premises, are also included. The employer has a legal duty to bargain in good faith, and it is permissible for the union to call a strike, with respect to these matters. It does not make a difference if the union’s demand is seemingly excessive or unrealistic. It is up to the union to demand what and how, and the law cannot dictate it to act wisely. Sometimes unions call a “protest strike” when, for example, a serious accident has happened at the plant. This is proper, too, because the union is in effect demanding a safer workplace.

A question arises when a union makes demands about the matters of non-members, but the courts put a generous construction on them. In a case under the old Labor Union Act, workers went on strike urging that the plant manager be ousted from the position. Although this seems like an intrusion into the prerogative of management, the Supreme Court agreed with the lower court that the real issue was the wages of union members, and therefore the strike was proper in its objective, because the manager had refused the union’s wage de-

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workers. For comparison, the number of regular national public servants in 2013 is about 341,000, excluding Self-Defense Forces personnel, judiciary staff, and other special officials.

mands in an arrogant manner at a prior bargaining session.<sup>13</sup> In another case in which a strike was called demanding the employer rescind the discharge of two managerial, non-union employees, the Supreme Court, as well as the lower court, upheld the properness of its objective, saying that the demand included the establishment of a better and fairer personnel system.<sup>14</sup> It was surely a matter of concern for all the workers, and the Court did not think it a problem that this demand was articulated only after the strike had begun. Accordingly, if a union calls a strike urging that the employer withdraw a plan to shut down the plant or to introduce new machinery, it is probable that implicit demands affecting the union members, such as opposition to their dismissal, will be found by the court, which in turn will keep the strike within the scope of properness.

There was, and still is, some controversy whether a political strike is proper. Some academics adopt the affirmative view, contending that political matters inevitably affect the conditions of workers one way or another, but the Supreme Court has consistently refused such a position.<sup>15</sup> In a relatively recent case, it sustained disciplinary suspension of union officials who directed a strike in protest against the government's decision to let a troubled nuclear-powered ship dock at Sasebo Port, holding that Article 28 of the Constitution does not embrace an act of dispute for political purposes that is not directly related to the demands vis-à-vis the employer for the betterment of the workers' economic standing.<sup>16</sup>

Likewise, a "sympathy" strike to support another union of an unrelated employer is not regarded as proper because it is beyond the control of the immediate employer. Such a strike is rare in Japan and we can only find a rather old decision of a district court concerning this issue.<sup>17</sup>

### 3. Manner of the Action

A strike, or concerted stoppage of work, is the most typical act of dispute. Unless marred by collateral illegality such as occupation of the plant or violence at the picket line, a strike is, by any means, proper. The union may call either a total strike by all of the workers, or a limited strike carried out by some of them; either a long strike lasting days or weeks, or a short strike for a couple of hours: either a single strike, or repeated strikes.

However, it is generally accepted that a strike should not endanger human lives or cause irreparable damage to the facilities. The LRAA declares this principle in Article 36, providing that "an act which hampers or causes the stoppage of normal maintenance or op-

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<sup>13</sup> Ohama Coal Mine case, Supreme Court, Judgment of April 23, 1949, *Keishu* 3-5-592. The employer was convicted for discharging union officials who led the strike.

<sup>14</sup> Kochi Shimbun case, Supreme Court, Judgment of April 26, 1960, *Minshu* 14-6-1004. Disciplinary discharge of union officials was held to be null and void.

<sup>15</sup> For example, see the Zen-norin case, *supra* note 11.

<sup>16</sup> Mitsubishi Heavy Industries case, Supreme Court, Judgment of September 25, 1992, *Rodo-hanrei* 618-14.

<sup>17</sup> Kishima Coal Mine case, Tokyo District Court, Judgment of October 21, 1975, *Rominshu* 26-5-870.



eration of safety equipment at factories or other workplaces shall not be resorted to even as an act of dispute.” In addition, a statute was adopted in 1953 regarding electric power facilities and coal mines.<sup>18</sup> It forbids acts of dispute that would prevent supply of electricity to the general public or disrupt essential security measures of the mine, and although there is no special sanction against violators, which is also the case with Article 36 of the LRAA, such acts will not be regarded as proper under the LUA.

On the other hand, even doctors and nurses employed at a hospital have a right to act collectively. The Supreme Court recognized that their strikes are not automatically improper because the patients cannot receive necessary care and treatment, although it intimated at the same time that the strikers should cooperate with the employer in cases of emergency.<sup>19</sup>

A “slowdown,” which entails working at a reduced pace than usual, is regarded as a proper means of collective action in Japan. It could be more harmful to the employer than an ordinary strike in that the workers remain on the job to perform imperfectly. However, it is settled that a slowdown is permissible so long as the workers are simply withholding a part of their work. By contrast, it is not proper for them to engage in positively injurious acts, such as intentional production of defective goods.

It is also not a proper act of dispute if the strikers occupy the facility and block access of the employer’s side. Immediately after World War II some unions not only occupied the facility but also ran the business on their own, but the Supreme Court denounced this so-called *seisan-kanri* or “production management” tactic as entailing an excessive infringement on the employer’s property rights.<sup>20</sup> Similarly, when the workers of a bus company took away and kept the vehicles during the strike so that they may not be driven by replacements, the Supreme Court decided that their action was excessive and unjustifiable and upheld their criminal conviction.<sup>21</sup>

Another source of impropriety is the workers’ conduct at the picket line. Some academics take the position that the use of physical power is inevitable and permissible to a certain degree, depending on the circumstances. However, the Supreme Court held repeatedly that any violence, threat or trespass should not be allowed even at the picket line because the substance of a strike is no more than workers’ non-performance of their job duties.<sup>22</sup> In a relatively recent case where the drivers of a taxi company, at the time of strike,

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<sup>18</sup> The Act to Regulate Strikes in Electricity Enterprises and Coal Mines, popularly known as “Strike Regulation Act.” This statute was adopted, overriding fierce opposition from the labor side, to curb the tactics the unions of these industries deployed in autumn 1952.

<sup>19</sup> Niigata Mental Hospital case, Supreme Court, Judgment of August 4, 1964, *Minshu* 18–7–1263. The employer discharged the union officials who led the strike, but the Labor Relations Commission issued a remedial order and the Supreme Court sustained it.

<sup>20</sup> Yamada Kogyo case, Supreme Court, Judgment of November 15, 1950, *Keishu* 4–11–2257. The union officials were found guilty of theft.

<sup>21</sup> Sanyo Denki-kido case, Supreme Court, Decision of November 15, 1978, *Keishu* 32–8–1855.

<sup>22</sup> Asahi Simbun case, Supreme Court, Judgment of October 22, 1952, *Minshu* 6–9–857; Haboro Coal Mine case, Supreme Court, Judgment of May 28, 1958, *Keishu* 12–8–1694. In the former case, discharge of union members who physically obstructed the operation of business by non-union work-

sat down in front of the garage to prevent the vehicles from being operated by replacements, the Court, reiterating the same rationale, held that the drivers' action was not proper and therefore fell outside of the protection of Article 8 of the LUA.<sup>23</sup>

#### 4. Other Factors Affecting Properness

There are some other factors that may affect the properness of industrial actions by labor unions.

Firstly, an act of dispute must be executed by appropriate persons under the control of a labor union. If a fraction of workers start a strike without authorization from the union, it is an improper "wild-cat" strike. Yet, it should be noted that even when there is no labor union, workers may form a temporary "*sogidan*," or dispute group, to deal with the employer over working conditions. Protected by Article 28 of the Constitution, they can resort, as a group, to strikes or other acts of dispute if necessary.

Secondly, most labor unions are required by their constitution to conduct a vote among the members before calling a strike. In fact, Article 5, paragraph 2 of the LUA mandates a union to have such a clause in the constitution if it wishes to utilize the procedures of the Labor Relations Commission. However, it is generally accepted that a failure to comply with this requirement will not render the strike improper vis-à-vis the employer, because it is only for the purpose of intra-union democracy.

Thirdly, an advance notice of a strike is sometimes required by the collective bargaining agreement between the parties. In such a case, the union should comply with the prior notification requirement, or the strike will not be considered to be proper. Even when there is no such agreement, the union's action may be condemned as improper in view of the facts of the case. For example, a district court held that an unannounced slowdown by union workers was grossly unfair and improper.<sup>24</sup> An appellate court came to a similar conclusion in a case where the union started a strike twelve hours earlier than its prior notice, giving the employer only five minutes to react to the change.<sup>25</sup>

Fourthly, when a collective bargaining agreement is concluded for a fixed period of time, both parties are bound by it for the period and the union should not call a strike demanding mid-term changes to the agreement. Some argue that such a strike would be totally intolerable and improper because the so-called "peace obligation" under the collective bargaining agreement is critically important. Others disagree, regarding it as a relatively minor infraction of a private agreement. The Supreme Court had an opportunity to address this

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ers was upheld. The latter is a criminal case in which union members were found guilty of forcible obstruction of business for a similar conduct.

<sup>23</sup> Mikuni Haiya case, Supreme Court, Judgment of October 2, 1992, *Rodo-hanrei* 619–8. Union members were found to be liable for the employer's claim of damages.

<sup>24</sup> Texas Instruments Japan case, Urawa District Court, Judgment of December 6, 1974, *Rominshu* 25–6–552.

<sup>25</sup> East Japan Railway case, Tokyo High Court, Judgment of September 11, 2001, *Rodo-hanrei* 817–57.

issue, but did not provide a clear answer.<sup>26</sup>

Finally, as for “public welfare undertakings” which provide essential services to the general public, such as transportation, telecommunication, electricity or gas supply, or medical services, Article 37, paragraph 1 of the LRAA requires that ten days’ notice be given to the Labor Relations Commission and the Minister of Health, Labor and Welfare or the prefectural governor before an act of dispute is commenced. Violators are subject to criminal punishment based on the request from the competent Labor Relations Commission, although there has been no case of prosecution or conviction in reality.<sup>27</sup> The Supreme Court is yet to decide if a strike becomes improper when the union fails to comply with this requirement, but most scholars are doubtful, saying that this provision is only for the convenience of the society and should not therefore affect the properness of the act.<sup>28</sup>

## **V. Liabilities for Improper Actions**

### **1. Criminal Liability**

When an act of dispute is not proper, neither Article 1, paragraph 2 of the LUA nor Article 28 of the Constitution provides criminal immunity to the actors. Still, the question remains what exactly constitutes a punishable crime.

It is generally accepted, at least in the private sector, that a strike is not a crime by itself. The Constitution and the LUA recognizes this as an indispensable and legitimate weapon for workers with which to deal effectively with the employer. Admittedly, strikers are intentionally inflicting economical damages on the employer aiming to make it yield to their demands. It would not be totally impossible to argue that strike is a forcible obstruction of business or an illegal extortion when it is not justified as a proper act of dispute. However, as far as I know, there is nobody who takes this position. The same is true with slowdowns and completely peaceful picketing. Criminal convictions have been upheld only in cases where the strikers engaged in other offending conducts, such as assault, bodily injury, trespass, or the damaging of property.

In this regard, it would be helpful to touch on the situation of postal workers before the privatization of the postal service. As described earlier in III. 3, they were covered by the predecessor of the Act on Labor Relations of Specified Independent Administrative

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<sup>26</sup> Konan Bus case, Supreme Court, Judgment of December 24, 1968, *Minshu* 22–13–3194. Disciplinary discharge of the head of the union was found to be null and void, without sufficient reasoning as to the issue of peace obligation.

<sup>27</sup> The Labor Relations Commissions come across such a case only once in several years, and even when a violation is found the case is usually closed with the issuance of a letter of warning.

<sup>28</sup> In addition, Article 38 the LRAA provides for prohibition of acts of dispute for 50 days when the Prime Minister has invoked the special “Emergency Adjustment” procedure for fear that the operation of the national economy or the daily lives of the people would be imperiled gravely by the labor dispute. Strikes in violation of this provision will probably be regarded as improper, but this procedure was used only once in the coal strike of 1952 and has been dormant ever since.

Agency, which prohibited strikes and other acts of dispute. In addition, as a unique feature of the postal service, the Postal Act made it a crime for anyone engaging in postal work to abandon or delay the handling of mail. When a postal union called a strike and its leaders were prosecuted for aiding and abetting this crime, the Supreme Court upheld their conviction, holding that the strike was illegal and therefore could not be proper.<sup>29</sup> However, it added that rank-and-file workers who participated in the strike as directed by their leaders should not be punished. Although this 1977 decision has been criticized by the labor side as reactionary, the Court did place some restraint on the criminal punishment of strikers.<sup>30</sup>

As for the government employees who are under the National Public Service Act or the Local Public Service Act, strikes are still illegal and, as explained above in III. 3, instigators are subject to criminal punishment. However, there is no provision to punish those who simply participated in the walkout. On the other hand, the instigators cannot escape criminal liability. The Supreme Court once limited this to cases of aggravated instigation in especially harmful strikes, leaving the union officials who planned and directed an ordinary strike in a normal manner unpunishable.<sup>31</sup> However, the Court subsequently changed its attitude and has since upheld the conviction of union officials in a number of cases.<sup>32</sup>

## 2. Civil Liability

When workers go on strike or slowdown, they are abandoning, either totally or partially, their duties under the employment contract. This is a violation of the contract, and they must assume civil liability for the damage inflicted on the employer by their respective violation if the strike or the slowdown is not a proper act of dispute. And the union officials who directed the act to the rank-and-file members are concurrently responsible for the total damage of the employer as an abettor of such inexcusable violations, pursuant to a tort provision of Article 719, paragraph 2 of the Civil Code.

On the other hand, when workers engage in violent picketing, occupation of the workplace, or destruction of facilities, the source of liability is such excessive acts accompanying the strike. The perpetrators are liable for tort damages resulting from the act under Article 709 of the Civil Code, and the union officials who directed the act are concurrently responsible as an abettor under Article 719, paragraph 2 of the Civil Code if they are not perpetrators themselves.

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<sup>29</sup> Zentei-Nagoya-chuyu case, *supra* note 11.

<sup>30</sup> The same provision remains in the Postal Act after the privatization, but a postal strike can be a proper act of dispute under the LUA today. Even when it cannot be regarded as proper because, for example, its objective is a political one, I doubt that ordinary participants of the strike will be punished for violating the provision.

<sup>31</sup> Zen-shiho Sendai case, *supra* note 10; Tokyo-to-kyoso case, Supreme Court, Judgment of April 2, 1969, *Keishu* 23-5-305.

<sup>32</sup> Zen-norin case, *supra* note 11; Iwate-ken-kyoso case, Supreme Court, Judgment of May 21, 1976, *Keishu* 30-5-1178; Nikkyoso case, Supreme Court, Judgment of December 18, 1989, *Keishu* 43-13-882; etc.

In addition, in either case, the labor union itself assumes vicarious liability under the relevant provisions of the Civil Code and a related law, depending on the judicial status of the union and the nature of the act. Some academics argue that only the union, and not the individual union members nor officials, should be responsible for the damage, emphasizing that an act of dispute is a unified, collective action. Others disagree, saying that the liability of those individuals should not disappear simply because the union is also liable. Still, they try to relieve the plight of workers and union officials somehow by adding that the employer cannot claim against them until it has claimed unsuccessfully against the union, so long as the act in question had been authorized the union. However, the courts have held, although we can find only a handful of lower court decisions, that the individual members and officials are jointly and severally liable, together with their union, for the entire amount of damages.<sup>33</sup> The employer is therefore free to claim against the individual members or officials first, if it so desires.

It is difficult to tell how the damages are calculated, because there have been so few cases. Moreover, I am not sure how correct each of these decisions was, nor if the employer could have recovered other losses by including them in the calculation. However, just to give readers some perspective on this question, four examples will be shown below.

- (1) In a case where a seven-day strike at a chemical factory was held to be improper because the union did not observe its obligation under the collective bargaining agreement to bargain peacefully before resorting to an act of dispute, the union was held liable for the employer's monetary loss from (a) reduced production due to the strike, (b) wasted constant costs during the strike, (c) partially-processed products ruined because of the strike, (d) additional expenses incurred to restart the facilities after the strike, and (e) special personnel costs to prepare for the strike.<sup>34</sup>
- (2) In a case of a five-day strike at a food-manufacturing factory, the union's tactic to blockade the facility and deny the employer's access was held to be improper. Because the employer could not handle the perishable materials stored in the refrigerator, some were totally ruined and the others had to be used for lower-priced products. The union and its officials were ordered to pay for (a) the value of the ruined materials, and (b) the reduced profits from the production of the lower-priced products.<sup>35</sup>
- (3) In a case of a taxi company, members of the drivers' union sat down in front of the

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<sup>33</sup> Misuzu Tofu case, Nagano District Court, Judgment of March 28, 1967, *Rominshu* 18-2-237; Shosen case, Tokyo District Court, Judgment of May 6, 1992, *Rodo-hanrei* 625-44; Shirai Transport case, Tokyo District Court, Judgment of December 26, 2006, *Rodo-hanrei* 934-5; etc.

<sup>34</sup> Denki-kagaku Industry case, Niigata District Court, Judgment of September 30, 1949, *Rohanshu* 5-26. The total amount of the damages was 2 million yen, which was as far as the employer demanded. The employer could have been awarded more than 7 million yen, according to the court. One could question if the union's failure in this case was reasonably related to all of these losses.

<sup>35</sup> Misuzu Tofu case, *supra* note 33. The total amount of the damages was about 1.1 million yen.

garage and made it impossible for the employer to operate the six cars kept inside during the two-day strike. This tactic was held to be improper, and the union members were ordered to pay for the employer's loss, that is, (a) average operating profit minus average operating cost (fuel, oil, depreciation of vehicles, and personnel) for the two days, and (b) attorney's fees.<sup>36</sup>

- (4) In a case of an unusually long strike at a company operating two bookstores, a minority of workers were on strike for almost two years. The company sued the union as well as the individual workers for the damages for the first three months, during which the strikers and the supporters scared away the customers, sometimes with physical force, and the sales dropped almost to zero. Because such an act was improper, the company was awarded damages for the lost profit, that is, (a) average sales for the three months multiplied by the average rate of profit, minus (b) the amount of saved wages of the strikers during the period.<sup>37</sup>

As for the civil liability of the union and the workers in relation to the third party, such as a customer of the employer, they are exempted from liability, just as they are not liable towards the employer, so long as their act of dispute is proper.<sup>38</sup> The wording of Article 8 of the LUA does not specify this, but it is generally accepted that a different conclusion would be contrary to the purpose of the LUA and the Constitution. When an act of dispute is not proper, this immunity does not apply. However, the workers and the union have no contractual relationship with the customers of the employer. Accordingly, so far as contractual liabilities are concerned, the employer should assume the liability, if any, towards the customers for the loss incurred by an improper strike, for example, and then demand the union and/or the workers to compensate. On the other hand, if the third party suffers directly from the act of the workers such as violence at the picket line, the workers, and possibly their union, are naturally responsible for the tort damages.

### 3. Discharge and Disciplinary Measures

Willful abandonment of duties by the worker who engages in a strike or slowdown can constitute a cause for a discharge or other disciplinary action as well, if it is not legitimized as a proper act of dispute. So can the worker's violence, trespass, and other offending actions accompanying a strike. In fact, most employers prefer taking disciplinary measures to suing the union and/or the workers for damages, which is costly and unrewarding. The employer must abide by the provisions of its work rules regarding discharges and disciplinary actions, but otherwise Article 7, item 1 of the LUA does not prohibit the em-

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<sup>36</sup> Mikuni Haiya case, Takamatsu District Court, Judgment of May 6, 1986, *Rodo-hanrei* 537-67. The total amount of the damages was about 230,000 yen. This case eventually went to the Supreme Court. See *supra* note 23.

<sup>37</sup> Shosen case, *supra* note 33. The total amount of the damages was about 97.7 million yen.

<sup>38</sup> OS Movie Theater case, Osaka District Court, Decision of June 24, 1948, *Rosaishu* 1-80.

ployer from discharging or disciplining a worker who engaged in an improper act of dispute.

Here again, some academics take a position that individual workers should not be held responsible because the union is the one to blame. There is also a different type of argument against disciplinary actions, which says that provisions of work rules are for the sake of discipline and order of the enterprise and therefore only meant for ordinary times, that is, not applicable to the worker's action at the time of a labor dispute. However, the courts have found no difficulty holding that the individual workers may be discharged or disciplined for their own infractions during a strike.

It is common that the union officials are disciplined more severely than rank-and-file members, including cases where only the officials are disciplined at all. Some criticize such a practice, asserting that union officials could not be treated unfavorably because of their positions within the union. However, there is a countervailing argument that the union officials are not being punished for their positions but for the actual roles they played—such as deciding the strategy and tactics, or directing the members at the site—in an improper act of dispute. Most courts take the latter view, upholding heavier disciplinary actions against union officials so long as the measures are suitable for their respective actual conduct.

Of course, even without the protection of Article 7, item 1 of the LUA, discharge and disciplinary actions are subject to generally applicable rules. Thus, a disciplinary discharge may be held to be null and void when it is disproportionately severe for the conduct in question. And the employer should comply with requirement of due process before disciplining the workers. Furthermore, if the employer is actually motivated by its underlying hostility towards the union and uses the improper act of dispute as a pretext, the disciplinary action may well be a violation of Article 7, item 1 of the LUA.

## **VI. Answers to Japan-Specific Questions**

### **1. Was There the Abolishment of the Offense of the Obstruction of Businesses in 1946? If So, What Was the Background behind It?**

No, the offence was not abolished. Let me review the historic developments. As mentioned above in III. 1, the Public Order and Police Law of 1900 was the most notorious piece of legislation in pre-war Japan aimed at curbing the workers' collective activities. It was amended in 1925 and a provision punishing even peaceful inducement of an ordinary strike was abolished. However, the other provisions regulating meetings and street demonstrations remained for the police to apply rather conveniently. At the same time, a new statute called the Law concerning Punishment of Physical Violence and Others was enacted, which prohibited violence, threat, destruction, forcible demand of meeting, etc. In addition, the Public Security Preservation Law of 1925 prohibited socialism, communism, or other anti-governmental activities, suppressing many politically active workers and unions. And there was the offense of forcible obstruction of business in Article 234 of the Penal Code. It

was a general provision of the basic criminal statute, but was utilized, along with even more laws and ordinances, to restrict labor movements.

After World War II, the ultimate goal of the Allied Powers was to democratize Japanese society, and it was thought crucial for this purpose to liberalize and promote labor unions. In October 1945, less than two months after the end of the war, a memorandum was issued by the occupational forces, which suspended all the laws and regulations restricting political, civil, and religious liberty of Japanese people. Then, the Public Security Preservation Law and the Public Order and Police Law were both abolished by the end of November, and the Labor Union Act was adopted in December 1945.

By contrast, the offense of forcible obstruction of business was not abolished. It remains in Article 234 of the Penal Code. So does the Law concerning Punishment of Physical Violence and Others. These regulations were regarded as legitimate and necessary tool to maintain the order of the society, although they had been abused in the past. When a strike is accompanied by violence or other forcible factor and therefore improper, these criminal provisions are applicable. However, the attitude of the police should be modest in view of the constitutional guarantee of the workers' collective rights.

## 2. Is There Any Difference between Liability of a Trade Union and That of Individuals in Relation to Burden of Proof?

Probably no. As described above in V. 2, the courts do not seem to care about the difference between the liability of individuals and that of a union. Once a strike is found to be improper, they are jointly and severally responsible for the entire loss of the employer. The same applies in the case of violence at the picket line, so long as it is an incidental result of the union's act of dispute. However, if the violence is totally personal in nature and has nothing to do with the union, the union may be relieved of liability. In this sense, union's vicarious liability has more factors to be proved or disproved, but I do not think this is an issue of "burden of proof."

## 3. Please Let Us Know the Case of the Privatization of JR with Regard to the Scope of Legitimate Industrial Action and Civil Liability.

As explained above in III. 3, the workers of the former Japanese National Railways (JNR) were covered by the predecessor of the Act on Labor Relations of Specified Independent Administrative Agency, which prohibited strikes and other acts of dispute. They frequently resorted to such acts in reality, however, and the participants and the union officials were disciplined or discharged as a result. There was an argument for relativity, saying that some of their strikes can be proper despite their illegality in a formalistic sense, but the Supreme Court eventually rejected this argument.<sup>39</sup>

After privatization, six regional railway companies and a nation-wide freight compa-

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<sup>39</sup> See Zentei-Nagoya-chuyu case, *supra* note 11.



ny were established. So far as labor relations are concerned, they are all ordinary private employers. The unions are as free to call a strike as any other union in the private sector. Because railways are included among “public welfare undertakings” under the LRAA, the union must give ten days’ notice before starting an act of dispute, as explained above in IV. 4. However, this is not a heavy burden and probably will not affect the properness of the action in any event. Thus, the difference is huge with regard to the scope of legitimate industrial action between before and after privatization.

As a matter of fact, even before privatization, the employer did not regard it as a particularly good idea to sue the union or the workers for damages for illegal strikes. However, in response to the audacious “strike for a right to strike” of 1975, the JNR, under considerable pressure from conservative politicians, filed an action for damages against the two unions which initiated the strike. It demanded an astronomical amount of 20.2 billion yen, reflecting the huge blow it afflicted on the JNR as well as the entire nation. As this case proceeded very slowly before the district court, privatization became a predominant issue at the JNR in the 1980s. The Nihon National Railway Motive Power Union (*doro*), the smaller of the two defendant unions, decided to cooperate with the employer for the privatization plan, and the JNR withdrew the claim against it in 1986, acknowledging their changed attitude. The other, the National Railway Workers’ Union (*kokuro*) maintained their opposition to the privatization plan. It was by far the largest union at the JNR, but lost most of its members, for one reason or another, during the process of privatization. The litigation dragged on well after the privatization, but the successor of the JNR’s assets and the union settled the case in December 1994. The union agreed in this settlement to return a building near Tokyo Station that it had rented from the employer for a long time. Thus, although the action for civil damages did not produce a final decision of the court, it did play a role in the tangled labor relations at the JNR and its successors.

#### 4. Is It Legal to Occupy Some Part of Premise during a Strike?

No, according to today’s prevalent theory. It may be regarded as legal for the workers to stay on the premises during a strike for various purposes, on the condition that they will not hinder the access and activities of the employer’s side, but “occupy” seems to imply otherwise. In a relatively recent case, in which the workers occupied a concrete mixer for six hours, denying the employer’s access to the vehicle, and because it could not be moved a nearby facility remained idle for the entire period, a high court decided that it was not a proper act of dispute.<sup>40</sup> Some academics are more willing than others to allow the workers’ incidental presence on the employer’s premise during a strike. However, it is not disputed that they cannot occupy the facility and exclude the employer’s access completely.

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<sup>40</sup> Okaso case, Tokyo High Court, Judgment of November 8, 2001, *Rodo-hanrei* 815–14.

## VII. Conclusion

I do not think we should complain that there are too few strikes in Japan. A strike is a form of economic warfare that inevitably disrupts the lives of many people. However, if the society becomes too accustomed to a scarcity of strikes, people may forget that it is a legitimate weapon for workers. People may become upset and react irrationally when they come across a strike. And perhaps judges may do so, too. When a union started a strike at a hospital in Mie Prefecture in August 2012, the employer's side asked the district court for an injunction to suspend the strike. It was granted summarily without hearing from the union. The issue at the prior bargaining sessions was a disagreement on working conditions and related matters. Because a hospital is a public welfare undertaking, the union had given a proper notice to the prefectural governor and others. It also took care not to endanger the lives and safety of the patients during the strike, although it refused the employer's specific request to secure certain persons.

The union later sued the chairman of the medical corporation that ran the hospital for damages, claiming that his petition for the injunction was a tortious infringement on the workers' right to strike. The same district court, presided by a different judge, accepted this rationale and ordered the employer to pay 3.3 million yen in total to the union as damages.<sup>41</sup> There remains a question if the employer was solely responsible for the misguided injunction. However, it will certainly take our efforts to keep the workers' collective rights viable in the real world.

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<sup>41</sup> Suzuka Sakura Hospital case, Tsu District Court, Judgment of February 28, 2014, *Rodo-horitsu-jumpo* 1820–67. According to news reports, the Nagoya High Court affirmed the judgment on November 27, 2014.

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# Career Interruption of Japanese Women: Why Is It So Hard to Balance Work and Childcare?

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Many Japanese women temporarily leave their jobs during the childrearing phase. In this paper, the author summarizes the present situation and causes of this interruption of work by Japanese women in the childrearing phase, mainly by re-aggregating the results of the “National Survey of Households with Children” conducted by the Japan Institute for Labour Policy and Training in 2012. This analysis revealed that 62% of all women in the childrearing phase, and of these, 56% of those with a university degree or higher educational background, are classified in “interruption type” career courses. The regular employee ratio of women in “interruption type” employment is 36 percentage points lower than those in “(job) continuation type” employment, and their average annual incomes are also only about half. Around 60% of women in the childrearing phase think it ideal to continue working after childbirth, exposing a wide gap between ideals and realities when it comes to balancing work with childcare. Possible factors behind the expansion of job interruption in the childrearing phase to women from higher educational backgrounds include the fact that the gender-specific role expectations placed on women (responsibility for housework and childcare) remain as high as ever, and that job interruption is influenced by male-centered Japanese-style employment practices.

## I. Introduction

In Japan, many capable women choose to remove themselves from employment. According to a recent survey (Hewlett et al. 2011), 74% of female university graduates in Japan have experienced periods away from work. Many of these are women in the childrearing phase. As of 2010, in two-parent households with children under 18 years of age, 47% of the wives were full-time housewives (Ministry of Internal Affairs and Communications Statistics Bureau, “2010 Census”). Many of these women, despite having both ability and strong educational backgrounds, spend their whole lives in housework, childcare and low-paid part-time work, without ever having the opportunity to be active in the labor market. In the “National Survey of Households with Children” (NSHC) conducted by the Japan Institute for Labour Policy and Training (JILPT) in November 2011, one 36-year-old full-time housewife with a university degree (and two children aged 6 and 3) described her dilemma as follows in her free statement (JILPT 2012):

“Without help from parents or other kinds of support, I feel that it would be very difficult to work full time at the same time as raising a child. Even if we want to work, we give up, because it is impossible to combine work with childcare. Another problem is that, once we leave a job, it isn’t so easy to go back under the same conditions

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\* This paper is an expanded and amended version of Zhou (2013a, 2013b).

as before. I wish the labor market could be more fluid and flexible.”

One study estimates that this waste of female human resources reduces Japan’s potential GDP by as much as 15% (Matsui et al. 2010). Meanwhile, at the FY2012 IMF-World Bank Annual Meeting in Tokyo, IMF Managing Director Christine Lagarde memorably remarked that “Women could actually save Japan” if more of them were in the job market. Quite a few foreign researchers also point out that women’s participation in the labor market could not only be the salvation of Japan’s ailing economy, but could even be a “secret weapon” for confronting the problem of population aging in Japan.<sup>1</sup>

What proportion of Japanese women in the childrearing phase is affected by this interruption of careers? How does such an interruption in the childrearing phase affect their lifelong careers? Why has career interruption in the childrearing phase become so established among Japanese women? While searching for answers to questions like this, the present situation and causes of career interruption by Japanese women in the childrearing phase will be outlined below, based on the re-aggregated results of the “National Survey of Households with Children” (NSHC 2012) conducted by JILPT in November 2012.

## II. Outline of NSHC 2012

The survey targeted 4,000 Japanese households with children under the age of 18, divided equally between two-parent households and lone-parent households (2,000 households each). The sample of target households was chosen by stratified two-stage random sampling. These households were visited individually by professional investigators, who distributed and later collected questionnaires (the visit and questionnaire distribution method). The investigators requested that the person answering the questionnaire should be the mother (wife) in possible case. Responses were essentially supposed to reflect the situation as of November 1, 2012 (the survey base date).

The valid sample count was 2,201 collected questionnaires (valid response rate 56%). Of these, 1,456 valid responses were collected from married mothers and 621 from single mothers. For details of the survey method and results, see JILPT (2013a).

## III. Present Situation

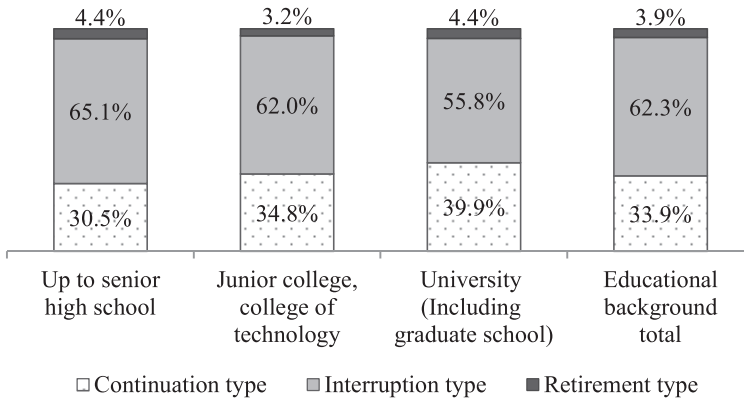
### 1. Career Interruption in the Childrearing Phase Has Spread to Highly Educated Women

In many countries after the war (such as the USA, the UK and Scandinavian countries), a trend toward higher educational backgrounds has progressed in tandem with the

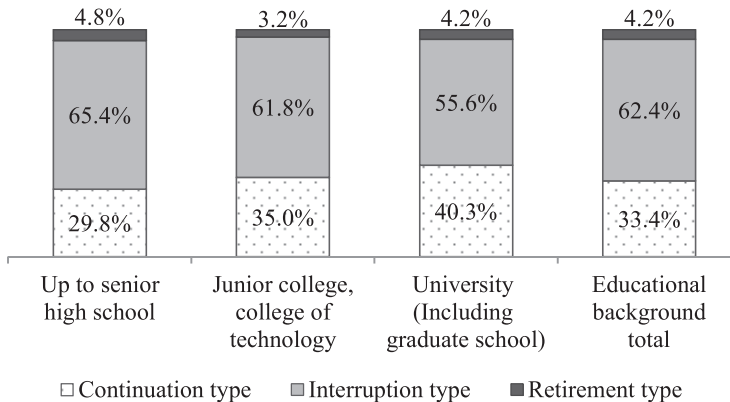
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<sup>1</sup> Ian Bremmer and Susan Shwab (2012) “Japan’s Secret Demographic Weapon,” Project Syndicate (<http://www.project-syndicate.org>) Oct. 15, 2012 (accessed March 13, 2013).

(1) Married/single women aged 30s–40s



(2) Married women aged 30s–40s



Source: Re-aggregated by the author from the *National Survey of Households with Children 2012* (figures after adjustment for oversampling of lone-parent households).

Note: Continuation type: Have generally continued working since graduating from last school, and are currently in employment; Interruption type: Temporarily left employment, but are now employed again or wish to return to work in future; Retirement type: Currently out of work, and have no intention or capacity to return to work in future.

Figure 1. Vocational Career Courses of Women with Children (2012)

acceleration of women’s advancement in the workplace (Osawa and Tanaka 1989; Osawa 1993). The phenomenon of career interruption in the childrearing phase expanding from women with lower educational backgrounds to those with higher educational backgrounds is unique to Japan. According to empirical analysis by Higuchi and Hayami (1984), while the labor force participation rate of (white) American women has increased markedly as educational levels have risen, there is less evidence of this effect in Japan, where it is not statistically significant.

If we divide the vocational career courses of childrearing women into three categories, namely (i) the “continuation type” who have generally continued working, (ii) the “interruption type” who temporarily left employment but have returned or wish to return to work in future, and (iii) the “retirement type” who have already withdrawn from the labor market, we find that the “interruption type” accounts for more than 60% of the total (Figure 1). Even among women from higher educational backgrounds, i.e. those graduating from 4-year university or postgraduate courses, the ratio of the “interruption type” is 56% of the total. Career interruption in the childrearing phase has clearly spread even among women from higher educational backgrounds.

## 2. Pronounced Employment Disparity Caused by Career Interruption

Japan has a strong custom of recruiting regular employees based on a unique system of “collective hiring of new graduates” that is not seen in other countries<sup>2</sup>; the market for mid-career hiring of regular employees is said to be underdeveloped compared to western countries. In the majority of cases, re-employment after career interruption involves low-paid part-time work (JILPT 2012).<sup>3</sup> As a result, job interruption in the childrearing phase has a major impact on women’s wages (Osawa 1993). According to estimates by Kawaguchi (2008), the “marriage penalty” in the broad sense (including career interruption for marriage) is around 8%, while the “childbirth penalty” in the broad sense is around 4%. The fact that the childbirth penalty is largely caused by interruption of employment due to childbirth is a characteristic of Japan that is not seen in overseas research, as Kawaguchi (2008) points out.

NSHC 2012 also confirms that a pronounced employment disparity has arisen between women who interrupted their careers in the childrearing phase (the “interruption type”) and those who did not (the “continuation type”) (Table 1). Compared to “interruption type” workers, “continuation type” workers include a higher ratio of regular employees (56% vs. 20%), and more of them work for large corporations (35% vs. 20%). Moreover, the average annual income of “continuation type” workers is 1.9 times that of “interruption type” workers.

So, do “continuation type” workers, in return for their status as regular employees and higher incomes, have to put up with longer commuting times or employment in unsocial hours? According to the survey results, the answer is “No.” The average commute of “continuation type” workers (one-way) is around 30 minutes, and only 23% of them responded

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<sup>2</sup> Collective hiring of new graduates is a system whereby employers recruit human resources (new graduates) who have only just graduated from education and have no experience of working as regular employees, and hire them collectively as workers upon graduation. This uniquely Japanese hiring practice is said to have spread and become established during the early 20th century.

<sup>3</sup> The wage gap between full-time and part-time workers is more pronounced in Japan than in other developed nations. Taking the hourly wage of full-time workers as 100, the wage paid to part-time workers is 56.9 in Japan (2012), 70.7 in the UK, 79.3 in Germany, and 74.3 in France (JILPT 2014, 177).

Table 1. Comparison of Working Conditions: “Continuation Type” vs. “Interruption Type”

	(A) Continuation type	(B) Interruption type	Disparity (A-B)
Average annual income (including tax, x10,000 yen)	280.9	151.3	129.6 (85.7%)
Of which, average annual income of regular employees	394.0	281.0	113.0 (40.2%)
Regular employees	56.0%	20.1%	35.9 Percentage Point
Work for large corporations	34.7%	20.3%	14.4 Percentage Point
Regular employees of large corporations	27.3%	4.9%	22.3 Percentage Point
Ratio of night work or early morning work	23.4%	18.1%	5.3 Percentage Point
Average commuting time (one-way, minutes)	24.6	18.3	6.3
Of which, average commuting time of regular employees	29.7	24.0	5.7

Source: Re-aggregated by the author from the *National Survey of Households with Children 2012* (figures after adjustment for oversampling of lone-parent households).

Note: The aggregation is aimed at childrearing women in employment. “Large corporations” here refers to companies or public bodies with at least 300 employees. The definitions of the “continuation type” and the “interruption type” are the same as in Figure 1.

that they work at night or early in the morning—almost the same as “interruption type” workers (Table 1). This suggests a scenario whereby women who work under favorable working hour conditions tend to remain in the labor market as “continuation type” workers.

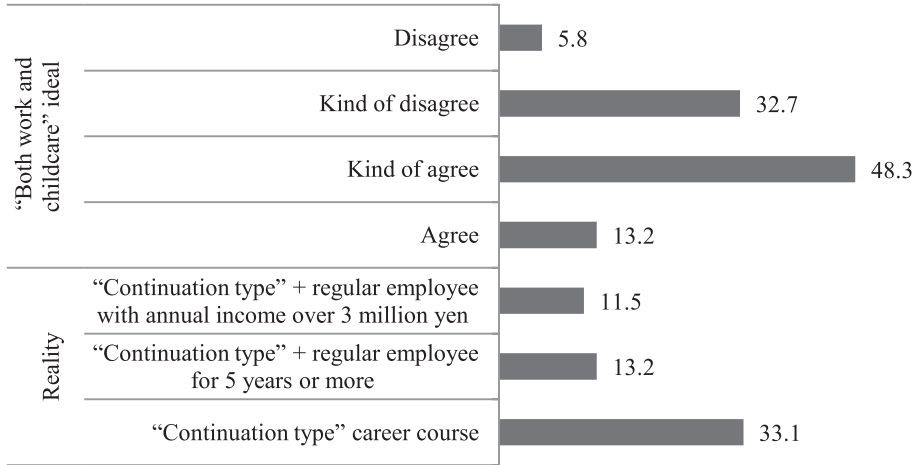
### 3. Balancing Work and Childcare: The Gap between Ideals and Reality

Do Japanese women opt for career interruption of their own accord? Actually, about 60% of childrearing women state that they “Agree” or “Kind of agree” with the working lifestyle of “women continuing to work even after having children” (Figure 2). In other words, the majority of Japanese women appear to see balancing work and childcare as the ideal image.

In reality, however, only one in three childrearing women practices the “continuation type” career course seen as ideal by many women. In particular, only 13% of women continue working as regular employees for more than 5 years. And only about 10% earn annual incomes above 3 million yen, seen as the dividing line for economic independence.

### 4. Reasons for Quitting Jobs as Regular Employees

Career interruption in the childrearing phase often starts by quitting one’s first job as a regular employee. Under the custom of “collective hiring of new graduates,” the majority



Source: Re-aggregated by the author from the *National Survey of Households with Children 2012* (figures after adjustment for oversampling of lone-parent households).

Note: This aggregation targets childrearing women aged 30 and over. Those in their 20s, with fewer years since graduating from education, have been removed from the aggregation as their working lifestyles are too fluid.

Figure 2. The Ratio of Women Who See “Balancing Work and Childcare” as Ideal and the Ratio of Women Who Achieve It (%)

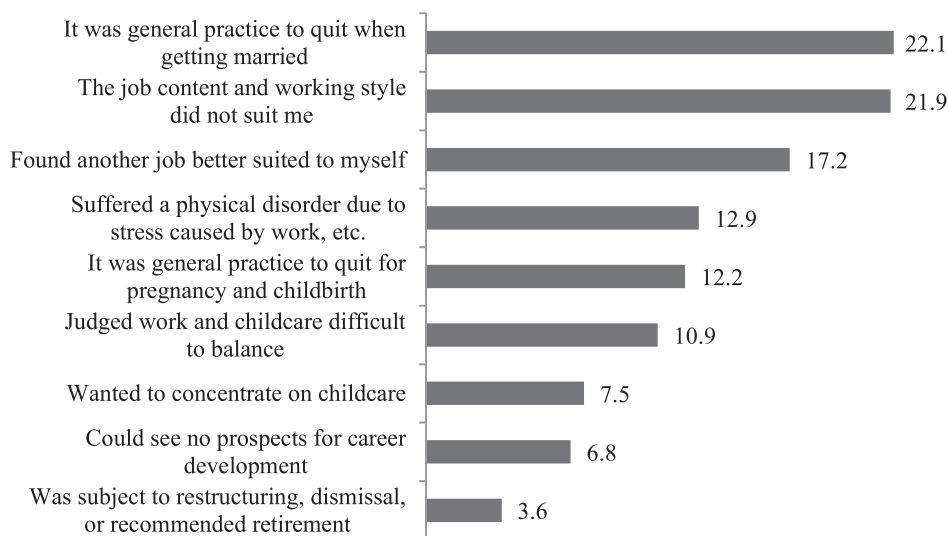
of women are given opportunities to work as regular employees upon graduating from their final educational institution. According to NSHC 2012, 76% of childrearing women classified in the “interruption type” had first been employed as regular employees. So why did these women relinquish the opportunity for employment as regular employees having once obtained it?

The reason for quitting most commonly given by women whose first job was in regular employment but who had interrupted their careers is that “It was general practice to quit when getting married” (22%) (Figure 3). If these are combined with those who cited “It was general practice to quit for pregnancy and childbirth” (12%) as the reason, we find that one in three respondents quit their jobs for marriage, pregnancy or childbirth, in line with (social or corporate) “custom.” Besides these, respondents who replied that they “Judged work and childcare difficult to balance” (11%) and “Wanted to concentrate on childcare” (8%) accounted for just under 20% of the total.

## 5. Reasons for Currently Being out of Work

According to NSHC 2012, around 80% of mothers who are currently not in employment state that they “Want to work right away” or “Want to work sometime soon.” When asked the reason for not being in employment, many women who are full-time housewives despite wanting to work cite reasons “related to children” (“Want to concentrate on





Source: Re-aggregated by the author from the *National Survey of Households with Children 2012* (figures after adjustment for oversampling of lone-parent households).

- Notes: 1. The aggregation is aimed at “interruption type” women whose first job was in regular employment. Multiple response up to a maximum of three (total response rate 133%).  
 2. Results related to reasons with an applicable ratio of less than 5% (excluding restructuring reasons) have been omitted.

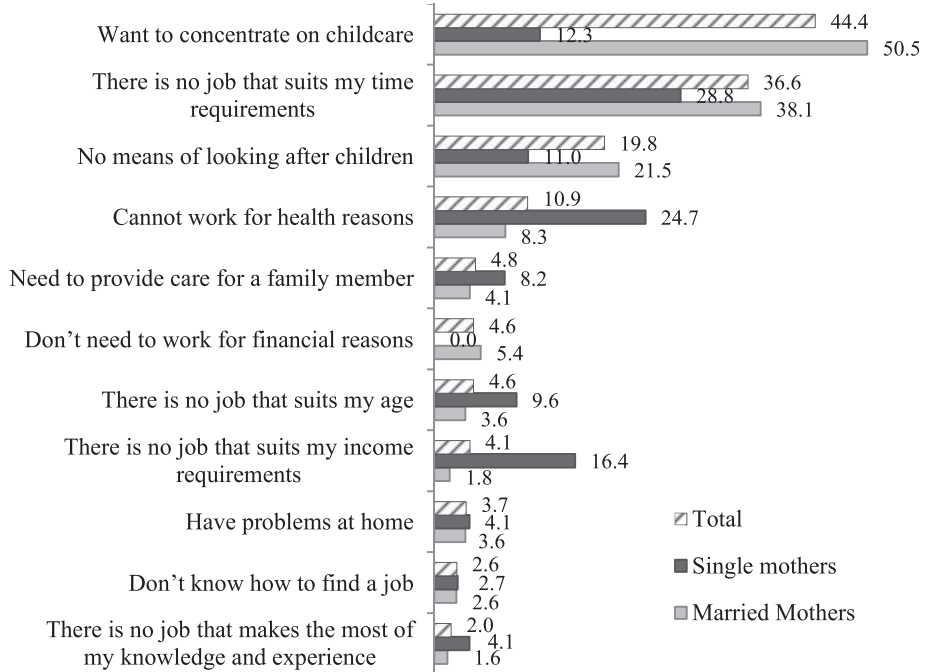
Figure 3. Reasons for Quitting First Job as a Regular Employee by “Interruption Type” Women (%)

childcare,” “No means of looking after children”), or reasons related to “Mismatch of labor supply and demand” (“There is no job that suits my time requirements,” “There is no job that suits my age,” “There is no job that suits my income requirements,” “There is no job that makes the most of my knowledge and experience”) (Figure 4).

As the reason for being out of work, 44% of non-working mothers (married mothers 51%, single mothers 12%) say they “Want to concentrate on childcare.” Those responding with “No means of looking after children” account for 20% of the total (married mothers 22%, single mothers 11%). And 59% of all respondents cite one of these reasons “related to children.”

Many mothers also give “Mismatch of labor supply and demand” as their reason for being out of work. “There is no job that suits my time requirements” is cited by 37% of non-working mothers (married mothers 38%, single mothers 29%) as the reason for being out of work. If this is combined with “There is no job that suits my age,” “There is no job that suits my income requirements” and “There is no job that makes the most of my knowledge and experience,” 41% of non-working mothers point to “Mismatch of labor supply and demand” as their reason for being out of work.

Meanwhile, reasons that were conspicuous among single mothers but not among



Source: Re-aggregated by the author from the *National Survey of Households with Children 2012* (totals are figures after adjustment for oversampling of lone-parent households).

Notes: 1. The figures result from aggregation of data from mothers who are currently out of work but responded that they “Want to work right away” or “Want to work sometime soon.”  
 2. Multiple response up to a maximum of two (total response rate 141%).

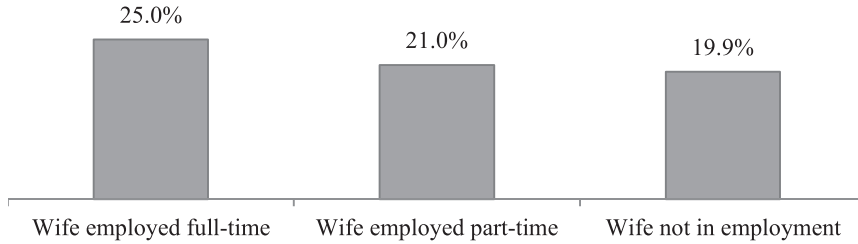
Figure 4. Main Reasons for Being out of Work Even Though Wishing to Work (%)

married mothers included “Cannot work for health reasons” (25%), “There is no job that suits my income requirements” (16%) and “There is no job that suits my age” (10%). Given the very high employment rate of single mothers (85%), this reveals that there are compelling reasons why non-working single mothers cannot work.

#### IV. Cultural Factors behind Career Interruption

##### 1. Gender-Specific Role Expectations of Women

In Japan, women’s workplace advancement has progressed since the war, but a Confucian culture remains as strongly rooted in the national consciousness as ever; the tendency to accept gender-specific role divisions between men and women could be described as stronger than in other developed nations. Women are subject to particularly high role expectations when it comes to household chores like cooking, cleaning, and raising children. According to the “National Survey on Family 2013” by the National Institute of Population and Social Security Research, 45% of women with spouses agreed with the idea that “After



Source: Re-aggregated by the author from the *National Survey of Households with Children 2012*.

Note: Results of responses by married mothers. “Employed full-time” means working at least 40 hours a week.

Figure 5. Husband’s Share of Housework and Childcare

marriage, husbands should work away from home and wives should devote themselves to housework.”

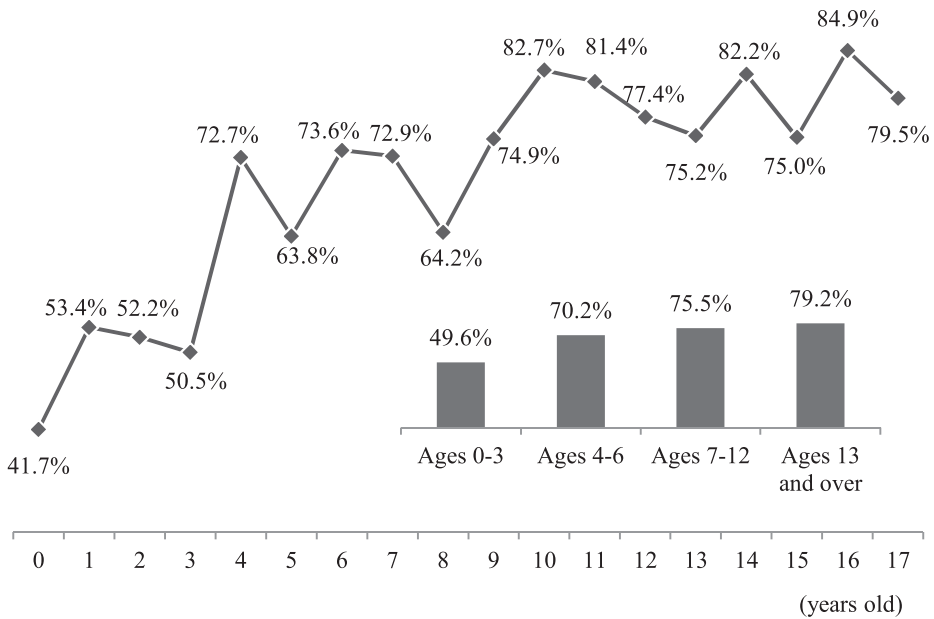
The household responsibility expected of women does not change in accordance with their working situation. Wives were divided into three groups depending on their employment status (“Employed full-time,” “Employed part-time” and “Not in employment”), and the husband’s share of housework and childcare was investigated in each case. The result was that, even if the wife is employed full-time, the husband’s share of housework and childcare is still 25% (Figure 5). In other words, the present situation is that women’s household duties do not diminish very much even when they are in employment.

According to the same “National Survey on Family 2013,” 77% of women with a spouse responded that “Mothers should not work but should concentrate on childcare until their child is about three years old.” NSHC 2012 also confirms that the labor force participation rate of childrearing women is closely linked to the age of the youngest child (Figure 6).

For example, the employment rates of mothers with children aged 0, 1, 2 and 3 are 42%, 53%, 52% and 51% respectively—in other words, all around 50%. But when the youngest child reaches the age of 4, the rate increases to 73%. By the time the youngest child is in the upper years of elementary school (ages 10–12), the employment rate of mothers has risen to the 80% range. An influencing factor behind the markedly low labor force participation rate among mothers with pre-school children (particularly infants aged 0–3) is thought to be the “myth of the first three years”—the belief that a child’s future development will be adversely affected if not raised by his or her own mother until the age of three.

## 2. Gender-Based Job Segmentation

When Japanese women choose a job, they often tend to choose “female occupations” like customer services or sales. Companies, too, assign women to general clerical work,



Source: Re-aggregated by the author from the *National Survey of Households with Children 2012* (figures after adjustment for oversampling of lone-parent households).

Figure 6. Labor Force Participation Rates of All Mothers by Age of Youngest Child (%)

customer service and other job types with low levels of speciality, in anticipation of an early turnover by female employees, while assigning more men to specialized, management, or core operations. As a result, there is a very high level of gender-based job segregation in Japan.

Table 2 compares female ratios in Japan, USA and China in terms of job classifications. Although a degree of gender-based job segregation can be seen in all three countries, the level of this segregation in Japan far exceeds that in China, and is also high compared to the USA. For example, the ratio of women among “Vehicle and machine operators,” a classically male occupation, is 3% in Japan but 7% and 14% in China and the USA, respectively. Other male occupations like “Construction and civil engineering,” “Machine repair and maintenance” and “Policing and firefighting” also have a markedly low female ratio compared to China and the USA.

A similar tendency toward segregation can also be seen in female occupations. The female ratio in the classic female occupations of “Healthcare and medical services” is as high as 94% in Japan, but only 61% and 87% in the USA, revealing that Japan has the highest concentration of female workers here. Many occupations in which women are concentrated—not only “Healthcare and medical services” but also “Hospitality and service,” “Product sales,” “General clerical” and others—are jobs that do not require special skills, in which companies can easily find replacement workers.

When it comes to “specialized occupations” that require special skills and are not so

Table 2. Gender-Based Job Segregation: Japan vs. China and USA

	Japan	China	USA
Job segregation index	44.1	22.0	39.5
Female ratio of male occupations (%)			
(A) Construction and civil engineering	1.9	12.3	2.6
(B) Machine repair and maintenance	2.4	10.9	4.0
(C) Vehicle and machine operators	2.6	7.0	13.9
(D) Policing and firefighting	5.8	10.0	24.1
Female ratio of female occupations (%)			
(E) Healthcare and medical services	93.8	60.6	87.1
(F) Hospitality and service	68.4	55.8	77.3
(G) Product sales	62.6	53.5	49.8
(H) General clerical	58.9	41.4	72.8
Female ratio of specialized occupations (%)			
(I) Management occupations	14.4	25.1	39.1
(J) Economy, finance and management	12.1	65.3	54.9
(K) Researchers and engineers	9.0	38.5	25.9
(L) Legal professionals	15.3	33.5	50.8

Source: Compiled by the author from the Ministry of Internal Affairs and Communications Statistics Bureau, *2010 Census*, National Bureau of Statistics of China, *6th Census Data 2010* and US Census Bureau, *2011 American Community Survey 1-Year Estimates*.

Note: Job segregation index =  $\sum \{ | Pf - Pm | \} / 2$

Where Pf = The ratio of women employed in each occupation to all women in employment (%)

Pm = The ratio of men employed in each occupation to all men in employment (%).

easily replaceable, conversely, Japan’s female ratio is the lowest of all three countries. The female ratio of employees in “Economy, finance and management” is 12% in Japan but 65% in China and 55% in the USA, revealing that, if anything, women are in the ascendancy in these countries as far as specialized jobs are concerned. A similar picture is found in “Researchers and engineers” occupations, where Japan’s female ratio is less than 10%, lagging far behind 39% in China and 26% in the USA. Japanese women have also made little headway, in comparison to China and the USA, in other specialized occupations like “Management occupations” and “Legal professionals.”

### 3. The Impact of Cultural Factors on Women’s Employment

A culture related to gender-specific role division is said to have a large impact on women’s employment. Generally, the female employment rate is high in cultures and social environments where gender-specific role division is relatively minor (Scandinavian countries, USA, China, etc.), but is conversely low in cultural spheres like Japan, Turkey and Italy, where the emphasis is on women’s household roles (OECD 2011).

It is also possible that culture and customs can transcend national frontiers to have a marked impact on an individual’s choice of employment. In the USA, for example, Fernandez (2007) conducted a study of married women between the ages of 30 and 40, consisting

of 2nd generation immigrants born of parents from 25 countries other than the USA. The results revealed that their daily working hours increased by up to 0.87 hours (equivalent to 8%) for every single-unit increase in standard deviation of the female labor participation rate in their parents' countries of origin.

It has also been pointed out that culture and customs related to gender-specific role division have an "Echo Effect," which changes the behavior not only of the current generation but also of future ones. According to Fernandez, Fogli and Olivetti (2004), males raised by working mothers are 32 percentage points more likely to marry women in employment. Also, in US states where the population ratio of working mothers increased anomalously due to large-scale population movement after the war, women in subsequent new cohort generations have maintained a relatively high employment rate.

Japan's culture related to gender-specific role division has been formed slowly over a long period of time. Partly due to the "Echo Effect," the emphasis on home roles for Japanese women has shown a slightly decreasing trend in recent years compared to the past,<sup>4</sup> but it still remains at a high level in comparison to western countries.

## V. Institutional Factors behind Career Interruption

### 1. Under-Utilization of Childcare Support Systems

In Japan, there is certainly no paucity of systems that support childcare. Besides a well-developed system of childbirth and childcare leave, homogeneous and high-quality nursery services are also provided.

Of public support systems that promote the workplace advancement of women in the childrearing phase, the most basic are the systems of childbirth and childcare leave. In Japan, employers are legally bound to provide paid leave for 6 weeks before and 8 weeks after childbirth. On top of this, employees covered by employment insurance who have worked for at least one year are entitled to take childcare leave until their child reaches the age of 1 (or, if meeting certain conditions, 18 months). During the period of statutory childbirth leave, 67% of the pre-leave wage is paid. In the case of childcare leave, 67% of the wage is paid for the first 180 days, then 50% for the remainder of the leave. The length of Japan's statutory childbirth and childcare leave, and the adequacy of income compensation provided, are not inferior to those of other developed nations.<sup>5</sup>

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<sup>4</sup> For example, the ratio of women with spouses who agreed with the idea that "After marriage, husbands should work away from home and wives should devote themselves to housework" fell from 54% in 1998 to 45% in 2013. Meanwhile, the ratio agreeing that "Mothers should not work but should concentrate on childcare until their child is about three years old" decreased from 91% in 1998 to 84% in 2003, 87% in 2008 and 77% in 2013 (National Institute of Population and Social Security Research, "National Survey on Family" [each year]).

<sup>5</sup> In 41 developed nations surveyed by ILO (2014), the average length of leave available to mothers as a combination of statutory childbirth leave and childcare leave (including unpaid leave) is 1.4 years (72 weeks), with a median value of 1 year (52 weeks).

Nurseries are indispensable to the workplace advancement of women in the childrearing phase. In Japan, nurseries are regarded as an element of child welfare, and both the national government and local authorities have invested significant amounts of taxpayers' money in setting up authorized nurseries known as Licensed Daycare Centers. This system, moreover, provides considerable convenience for its users. Firstly, the majority of nurseries admit infants from the age of 0, allowing parents to return to work early if they so desire. Secondly, the fees for use (nursery fees) are kept very low overall compared to the actual running costs ("low fees"), and these fees are adjusted up or down depending on the parents' income level ("ability-to-pay principle"). This makes them easy to use, even for women in low income brackets (Zhou, Oishi, Ueda 2003). Moreover, the standards for nursery establishment are strictly regulated by the "Child Welfare Act," and the childcare content by "Nursery Childcare Guidelines," ensuring the provision of a homogeneous, high-quality service.

The problem is that many mothers do not enjoy the benefits of such childcare support systems. For while 89% of female regular employees (or 81% of those on fixed term contracts)<sup>6</sup> now utilize the childcare leave system (Ministry of Health, Labour and Welfare, "Basic Survey of Gender Equality in Employment Management 2011"), the rate of use by childrearing women as a whole is only about 20% (JILPT 2013b). This is because the system is not available to full-time housewives, the self-employed, or those engaged in agriculture, forestry or fisheries, while it is often beyond the reach of part-time workers as well.<sup>7</sup>

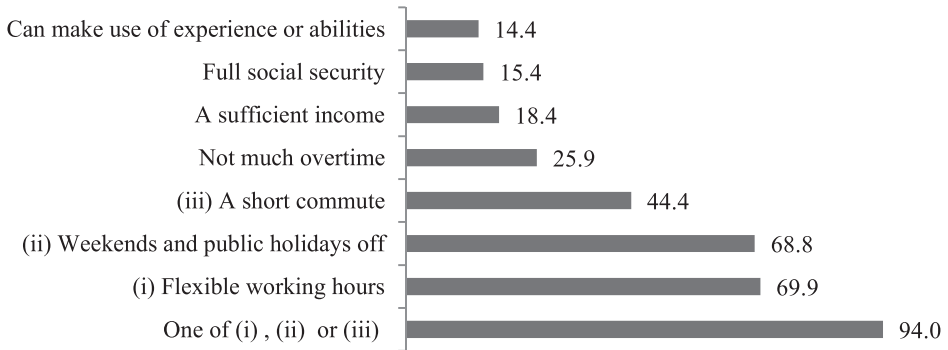
Another factor hindering the workplace advancement of women in the childrearing phase is the underdevelopment or shortage of nursery facilities, particularly in large cities like Tokyo and Osaka (Zhou 2012). Although both the number of nurseries and their admission capacity has increased year by year since the Child Welfare Act took effect in 1948, the supply of nursery places has still not caught up with demand. According to a survey by the Ministry of Health, Labour and Welfare, 23,000 children were on the waiting list for Licensed Daycare Centers as of April 2013,<sup>8</sup> and although this represents a slight improvement on 33,000 in 2000, it remains at a high level. When raising a preschool child, ample nursery services can be obtained under the ability-to-pay principle if the child can be

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<sup>6</sup> These figures do not include working women who quit their jobs before childbirth, either in the denominator or in the numerator.

<sup>7</sup> According to global statistics published by ILO (2014), the application rate of statutory childbirth leave among female employees is only 41%, while the rate of receiving compensation during childbirth leave is less than 30% (28%). The need to apply childbirth and childcare leave systems to non-typical workers and the enhance childbirth and childcare support systems for full-time housewives appear to be global issues.

<sup>8</sup> Equivalent to 1% of the number of children enrolled in Licensed Daycare Centers during the same period (2.22 million). Besides these, the "latent waiting list" of children not counted in the waiting list because their parents have not applied for nursery places is estimated to be on a scale at least ten times greater than this (Zhou and Oishi 2005).



Source: Re-aggregated by the author from the *National Survey of Households with Children 2012* (figures after adjustment for oversampling of lone-parent households).

Note: Aggregation targeting mothers currently not in employment. Multiple response up to a maximum of three.

Figure 7. Conditions Prioritized When Taking a Job (%)

admitted to a Licensed Daycare Centers. If not, the mother inevitably has no choice but to leave work, or use expensive unlicensed nursery facilities, private babysitting services, or home-based childcare by relatives.

## 2. Male-Centered Japanese-Style Employment Practices

Japanese-style employment practices are modeled on the image of the male worker married to a full-time housewife. In return for lifelong employment and seniority-based pay from their companies, male workers provide a “flexible” style of working that suits the companies’ convenience, including long working hours, unscheduled overtime, holiday work, business trips and transfers (Yashiro 2009). This allows companies to make effective use of a limited number of regular employees and keep hiring and firing to a minimum. What makes this style of working by men possible is the culture of gender-specific role division, whereby women take care of all housework and childcare duties (Kawaguchi 2008).

Conversely, as women undertake the majority of housework and childcare, they cannot work “flexibly” in accordance with companies’ demands. A look at the conditions prioritized when childrearing women take up jobs shows that working hours are given far greater importance than income or making use of abilities (Figure 7). “Flexible working hours” (70%), “Weekends and public holidays off” (69%) and “A short commute” (44%) are chosen as priority conditions related to working hours when women take up employment.

Thus, as they are subject to considerable constraints in terms of working hours, women cannot provide companies with a “flexible” working style, and therefore tend to be excluded from core operations and management candidacy. Many mothers who return to work after taking childcare leave are said to be placed on the “Mommy track” (work earmarked for mothers), given jobs where they cannot use their knowledge or experience, and



trapped in positions where they have no prospect of promotion (Zhou 2014). As a result, despite taking childcare leave (with the intention of returning), women who interrupt their careers have no future at work. According to NSHC 2012, 26% of those who take childcare leave are classified in “interruption type” career courses.

## **VI. To Overcome Career Interruption in the Childrearing Phase**

Many Japanese women in the childrearing phase come from higher educational backgrounds. As of 2011, 53% of Japanese women aged 25–49 had an educational background of graduation from junior college, university or higher, more than 20 percentage points above the equivalent US figure (32%) (JILPT 2013b). Normally, therefore, one would expect Japanese women with higher educational backgrounds to have fewer problems than their American counterparts when choosing workplace advancement. In reality, however, Japanese women in the childrearing phase have a lower employment rate than those in the USA. This is because career courses involving temporary interruption in the childrearing phase became established among Japanese women in the period between the era of high-level economic growth and the first half of the 1990’s, when the “economic bubble” burst.

In Japan, with its strong custom of recruiting regular employees through “collective hiring of new graduates,” career interruption in the childrearing phase has a significantly negative effect on women’s lifelong careers. Re-employment after career interruption is biased toward job types in the “4Cs (Caring, Cleaning, Cooking, Cashier)” and part-time employment with less than 35 hours a week; it overwhelmingly involves work of low “quality,” including low hourly pay and a lack of work motivation. As a result, career interruption of women in the childrearing phase causes a massive decrease in lifelong income for the child-rearing household, and signifies a profound waste of human capital for society at large.

In Japan, the culture of gender-specific role division is expected to diminish in future, but it is still seen as difficult for women to free themselves from their relatively heavy responsibility for housework and childcare. Even in Scandinavian countries, where gender-specific role divisions are not prominent, women generally bear greater responsibility than men when it comes to housework and childcare. If a heavier household responsibility than men is presumed to be imposed on women, their choices of occupation and job type will be particularly important. If women could take up occupations and jobs where discretionary working hour systems, flextime work, working at home and other flexible working hour have been introduced, and OJT, personnel selection and promotions are evaluated on the outcome of their work rather than the length of working hours, or their work at specific times (such as night or holidays), it should be easier for them to continue working in the childrearing phase.

According to analysis by Goldin (2014), there is a smaller “penalty to being a wom-

an” in the technology, science and health industries, making it easier for women to continue working in those industries. Conversely, the business, finance and legal industries impose large constraints on working hours, and thus present significant penalties for women. Women’s workplace advancement in Japan’s technology and science industries lags far behind that in the USA, and it could be seen as an urgent task for sites of education to nurture specialist female personnel for these industries.

Another important thing will be to minimize the negative impact on women’s lifelong careers when career interruption occurs in the childrearing phase. Measures to combat this could conceivably include expanding methods of recruiting regular employees by using “mid-career hiring,” enhancing programs in support of their return to work, and encouraging an early return to work (introduction of a system for reducing income compensation rates during childcare leave in 2014).

Meanwhile, since male-centered Japanese-style employment practices depend on women assuming all housework and childcare, this prerequisite is in the process of collapsing as women in the childrearing phase continue to work. If the number of male workers who can provide a “flexible” style of working to suit their company’s convenience (including long working hours, unscheduled overtime and holiday work) were to decrease, reforms of existing Japanese-style employment practices would also surely become inevitable. Such reforms could be expected to change those practices in a direction that will be more friendly for women.

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# International Comparison of Unemployment Compensation Programs: Focus on Recipient Ratio to Unemployed Workers

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This article compares recipient ratios under the unemployment compensation systems of several Western nations, and outlines the results of analysis of factors determining whether these ratios are high or low. Seven countries' figures are analyzed, such as Germany, France, the UK, Sweden, and Denmark. The transition of recipient ratios since 2000 is examined based on data released by governments, and the impact of the specific factors of unemployment compensation systems on these ratios is analyzed. The recipient ratio in Japan's unemployment insurance system is said to be low compared to those of Western nations, but a comparison of the contents of these systems reveals that simple comparison of figures for each country runs a risk of leading to erroneous understanding. In Germany and the UK, generally thought to have high recipient ratios, a large percentage of recipients are receiving unemployment assistance funded by tax revenues, which differs from unemployment insurance. When limited to unemployment insurance only, Germany's ratio is close to that of Japan, and the UK's is in fact lower.

## I. Introduction

Within the overall social security system, the role of unemployment compensation programs is by no means large. In monetary terms, they are dwarfed by pension and medical insurance systems. However, it is to unemployment compensation that workers turn when they have lost their employment and source of income for some reason, and the number of workers relying on it is considerable.

The effects and impact of unemployment compensation (in this article, primarily referring to unemployment insurance and unemployment assistance) can be analyzed from several perspectives. First, there is the question of how unemployment benefits as income compensation impact the duration of unemployment, in other words the question of whether unemployment benefits reduce the incentive to seek re-employment. In assessing this, key factors are the amount (level) of income compensation and the duration unemployment benefits are received. The second topic for analysis is the scope of coverage offered by unemployment compensation programs, in other words whether unemployment compensation extends to the unemployed workers in need of compensation. The factors to be analyzed are "income replacement rate" and "recipient ratio," the former being the percentage of prior income level (when employed) covered by unemployment compensation, and the latter being the percentage of all unemployed workers that are receiving unemployment compensation.

In this article, first of all, I examine procedures for calculating percentages of unem-

ployed workers receiving assistance, for the purpose of international comparison. The International Labour Organization (ILO) periodically releases data on international comparisons of the percentages of unemployed workers receiving unemployment compensation.<sup>1</sup> According to these ILO press releases, under Japan's unemployment insurance system, the recipient ratio is extremely low compared to Germany, France and other nations.<sup>2</sup> I examined the definitions used for the ILO data, and based on the results, chronologically plotted data on the unemployment compensation recipient ratio released by the governments of major OECD countries, and clarified differences with the ILO data. Not only the total recipient ratio (including both unemployment insurance funded by insurance premiums collected from labor and management, and unemployment assistance drawn from taxes), but also the recipient ratio limited to unemployment insurance only is reviewed. In addition, an outline of unemployment compensation programs in Germany, France, Denmark, and Sweden is given, based on the JILPT's survey requested by the Ministry of Health, Labour and Welfare (MHLW) in fiscal 2013. Lastly, factors contributing to higher and lower recipient ratios in the four countries are then considered.

## II. Previous Studies

As noted above, the economic scale of unemployment compensation programs is small compared to those of pension and medical insurance systems, and the volume of previous research is by no means large.

Meyer (1990) tested the effects of the level and length of unemployment insurance benefits on unemployment durations based on analysis of data from 1978 through 1983 in 12 US states such as Georgia, Ohio, and Louisiana. The study found that high payment amounts had a negative impact on speed of return to employment. Hunt (1995) studied the impact of amendments to unemployment compensation programs, in the form of lowering of payment amounts and shortening of duration of benefits, carried out three times during the 1980s in the former West Germany. His findings showed that the effect of lower compensation amounts on duration of unemployment varied depending on the age group. Shortening of the duration of unemployment benefits due to lowering of payment amounts was more pronounced among workers in their 50s than those in their 40s. Ours and Vodopivec (2006) analyzed amendment of the unemployment insurance system from the 1990s onward in Slovenia, finding that shortening of duration of unemployment insurance benefits had a positive impact on unemployed workers' return to work. Lalive (2007) re-

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<sup>1</sup> In the *Annual Report of the Employment Insurance Program* published in Japan, the term "receipt rate" is used to indicate the percentage of insurees who are receiving benefits, but here the object of analysis is the ratio of people who are receiving benefits to unemployed people overall, and thus the term "recipient ratio" is used.

<sup>2</sup> *Nihon Keizai Shimbun*, November 15, 2012, evening edition, p. 3; *Nihon Keizai Shimbun*, March 25, 2009, evening edition, p. 1, etc.

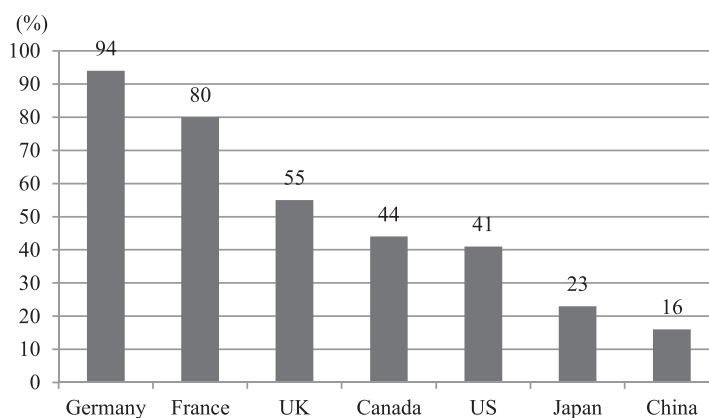
searched at Austrian data from 1989 to 1991, focusing on the impact of duration of benefits on length of unemployment. Meanwhile, Kuhn and Riddell (2010) looked at data from New Brunswick province in eastern Canada and the neighboring US state of Maine from 1940 through 1991, analyzing the unemployment insurance system over the long term. This study examined the impact of unemployment benefit duration on labor force supply and demand, and found that among unemployed workers in Canada, the percentage of partially employed workers was clearly lower than in the neighboring US. A likely contributing factor is the relative generosity of the Canadian unemployment insurance system, compared to that of the US.

In these empirical analyses of the unemployment insurance system, frequently adopted perspectives are (i) a fiscal perspective, involving relational analysis of benefits and rates, (ii) the question of unemployment insurance systems' impact on return to work, involving relational analysis of benefit duration and re-employment rate, and (iii) analysis of the impact of unemployment benefits on unemployed workers' behavior aimed at returning to work. Our research was unable to locate any existing studies focusing on the recipient ratio (percentage of unemployed workers receiving benefits), which will be analyzed in this article.

Sakai (2012) analyzed the reasons for Japan's declining ratio of unemployment insurance benefit recipients. He looked back on the history of revisions of the unemployment insurance system since 1984, and examined these revisions' influence on number of recipients. Sakai also cited Simms and Kuehn (2008) in noting that the unemployment insurance recipient ratio has been trending downward in the US as well, but states that analyses of this ratio in other countries could not be found, and also that no studies could be found that closely scrutinize factors that contribute to declining unemployment insurance recipient ratios. In conducting our survey, as well, we investigated the literature to see if there were any previous studies analyzing recipient ratio, but were unable to identify any. Besides, we were unable to find any literature addressing the question of which factors determine the recipient ratio among unemployed workers, which is the primary objective of this article.

As for research other than empirical analysis, an OECD (2007) research deserves mention as a comprehensive international comparison of unemployment compensation from a systemic perspective. This includes comparisons of the implementation status of unemployment insurance, unemployment assistance, and social assistance programs, as well as housing and family allowances and benefits or tax deductions with work as a prerequisite. However, this data is somewhat outdated, and in the case of some countries does not reflect current conditions (such as duration of benefits in Denmark). Also, some information in the OECD research has the potential to be misleading because detailed explanations of the various countries' systems are omitted (for example, the duration of benefits in France is listed as 60 months, but there is no explanation of age-related and other conditions that apply to this duration.)

As far as we have seen, there are few previous studies analyzing and making international comparisons of factors influencing recipient ratio.



Source: ILO (2009).

Figure 1. Comparison of Unemployment Compensation Recipient Ratios (1)

### III. Review of ILO International Comparison Data on Unemployment Compensation Recipient Ratio

#### 1. ILO Data Published in 2009 (Figures for 2008)

The ILO (2009, 16), in a chapter discussing global-scale crises, analyzed expenditures for social protection as a percentage of GDP, and showed the percentage of workers who do not receive any unemployment compensation. Figure 1 indicates, conversely, data on the ratio of workers who do receive some unemployment compensation. The gap between Japan and Germany was 71 percentage points.

#### 2. ILO November 2012 Press Release

In November 2012, the ILO issued a press release with the heading “More than 70 percent of workers lack unemployment protection,” and released the unemployment insurance recipient ratios of various countries on its website.<sup>3</sup> Figure 2 shows these figures for the major OECD countries, and there is a 76-percentage-point difference between Japan and Germany.

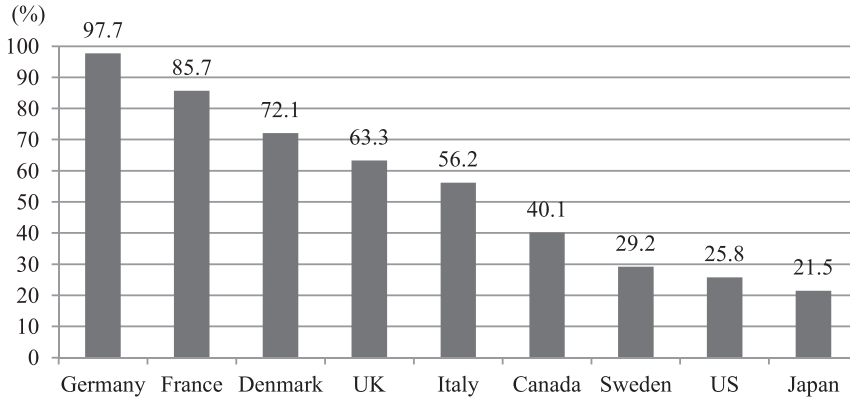
#### 3. Data Posted on ILO Website (As of February 2015)

The figures cited in section 2 above have been updated several times since the press release was issued in November 2012. Figure 3 shows the latest data as of February 19, 2015. I have confirmed periodically that it has not been updated since December 2013. The gap between Japan and Germany stands at 70.4 percentage points.

Based on the ILO data, I point out the following three questions. Firstly, figures for

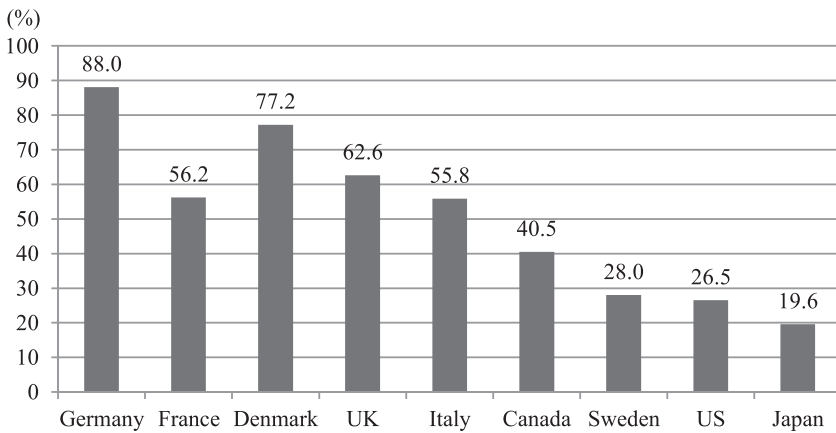
<sup>3</sup> Referred to following website: [http://www.ilo.org/washington/WCMS\\_193133/lang--en/index.htm](http://www.ilo.org/washington/WCMS_193133/lang--en/index.htm) (accessed February 19, 2015).





Note: Data for each country is dated as follows: Germany (2012), France (2011), Denmark (2012), Sweden (2011), UK (2011), Italy (2010), US (2012), Canada (2012), Japan (2011).

Figure 2. Comparison of Unemployment Compensation Recipient Ratios (2)



Note: Data for each country is dated as follows: Germany (2012), France (2013), Denmark (2013), Sweden (2012), UK (2012), Italy (2011), US (2012), Canada (2013), Japan (2010).

Source: Website of ILO. [http://www.ilo.org/dyn/ilossi/ssimaps.mapIndicator2?p\\_indicator\\_code=CR-1f+UE](http://www.ilo.org/dyn/ilossi/ssimaps.mapIndicator2?p_indicator_code=CR-1f+UE) (accessed February 19, 2015).

Figure 3. Comparison of Unemployment Compensation Recipient Ratios (3)

Germany and the US are from the same years in both Figure 2 and Figure 3, but the figures differ depending on when they were released. This may be due to the use of different definitions, or to different sources used for calculating ratios. Data for Japan listed through November 2013 was from 2011, but the latest postings show data from 2010. This means that the ostensibly updated data shown in Figure 3 is actually older than the data in Figure 2.

Secondly, there are evident problems with the methods used to calculate these sets of

data released by the ILO, and it is not clear whether they can serve as the basis for valid international comparison. In particular, in the ILO data calculation procedure, it seems that there is no strict consistency among the definitions and conditions used in each country for “unemployed” as the denominator and “recipient” as the numerator.

Thirdly, in the case of France, there is a significant drop in the ratio from over 80% in 2012 to under 60% in 2013, and there is an unusual 29.5 percentage point drop over this one-year period, which may be due to different definitions being used. In fact, in Section IV. 1, I scrutinize data released by the French government to confirm the difference in definition.

#### **IV. Comparison Based on Time-Series Data Released by National Governments**

##### **1. Recipient Ratio of Unemployment Compensation Programs**

The recipient ratios in ILO data examined in Section III have some problems, in that there is a large fluctuation in France’s ratio over the course of a year, the updated values for Japan as of February 2015 are actually based on older data than the previously released values, and so forth. In this section, we look closely into the figures released by governments and study methods to be used for calculation of accurate recipient ratios.

To begin with, let us make an international comparison of recipient ratios in terms of unemployment compensation, which includes unemployment insurance and unemployment assistance. In order to calculate valid (internationally comparable) recipient ratios, it is necessary to be sure that the definition of “unemployed workers” and that of “unemployment compensation recipients” are consistent. However, it is extremely difficult to compare figures based on a consistent definition. To ensure the definition to be used is as consistent as possible, in the case of France, for example, it is necessary to exclude partially employed workers among the unemployed population, as they also are eligible to receive unemployment compensation. However, according to our research, no data has been released on the number of completely unemployed workers receiving compensation. With regard to Japan, as people aged 65 and older are not eligible to receive unemployment insurance benefits, unemployed workers in this age group should be excluded from the scope of the unemployed in order to calculate an accurate recipient ratio. To guarantee consistency of definitions, we turn to the sources shown in Table 1 to obtain data on countries surveyed.

According to Chapter 3 of JILPT (2014), the German Federal Employment Agency (Bundesagentur für Arbeit) releases official statistics on the percentage of unemployed workers who receive unemployment benefits (the “unemployment benefits recipient ratio” or Leistungsempfängerquote). This is calculated by adding the number of recipients of Unemployment Benefits I (Arbeitslosengeld I) (the former Unemployment Benefits [Arbeitslosengeld]) and Unemployment Benefits II (Arbeitslosengeld II) (the former Unemployment Assistance [Arbeitslosenhilfe], with some of the former Social Assistance

Table 1. Sources and Scope for Number of Unemployed Workers and Number of Unemployment Compensation Beneficiaries in Each Country

	Number of unemployed people		Number of unemployment compensation beneficiaries	
	Source	Scope	Source	Scope
Denmark	Denmark Statistik (Statistics Denmark)	Unemployed persons	Denmark Statistik (Statistics Denmark)	Unemployment insurance beneficiaries
France	Pôle emploi (Job Centre)	Demandeurs (Job seekers)	Pôle emploi (Job Centre)	ARE (Allocation d'aide au Retour à l'Emploi) and ASS (Allocation de Solidarité Spécifique) recipients, etc.
Germany	Bundesagentur für Arbeit (BA) (Federal employment agency)	Arbeitslose (Unemployed people)	Bundesagentur für Arbeit (BA) (Federal employment agency)	Arbeitslosengeld I (Unemployment Benefits I) and Arbeitslosengeld II (Unemployment Benefits II) recipients
Sweden	Statistiska centralbyrån, SCB (Statistics Sweden): Labor force survey	Arbetslösa (Unemployed)	IAF, Statistikdatabas (Swedish Unemployment Insurance Board)	Recipients in basic compensation scheme and income-related compensation scheme
UK	Office for National Statistics: Labour market statistics	Unemployed people	Department for Work and Pensions	Jobseeker's allowance (contributory and income-based) recipients
US	Bureau of Labor Statistics (BLS): Employment statistics	Unemployed persons	US Department of Labor (Employment & Training Administration)	Unemployment insurance benefit recipients
Canada	Statistics Canada	Unemployed persons	Statistics Canada	Employment insurance benefit recipients

Source: Referred to JILPT (2014), Higuchi (2013), Iwasaki (2002), etc.

[Sozialhilfe] added), then subtracting the number of workers who are receiving both I and II.

According to Chapter 2 of JILPT (2014), statistics on the number of unemployment insurance recipients released by the French government represent not only workers receiving unemployment benefits, but also those receiving support related to vocational training. For France, there are two official statistics related to unemployment, statistics on “unemployment” published by INSEE (L’Institut National de la Statistique et des Études

Économiques; the National Institute of Statistics and Economics Studies) and statistics on “job seekers” released by the Job Centre (Pôle Emploi). The Job Centre classifies job seekers in Categories A to E according to their conditions. In this article, I examine job seekers of Categories A, B, and C. The number of unemployment benefit recipients is calculated by subtracting the number of workers receiving support related to vocational training from the total number released by the Job Centre.

For Denmark, according to Chapter 1 of JILPT (2014), I used the numbers of unemployed workers and unemployment insurance recipients released by Statistics Denmark, which are calculated after subtracting the number of social assistance recipients. For Sweden, according to Chapter 4 of JILPT (2014), the figure was calculated using the “number of unemployed workers” from a Statistics Sweden (Statistiska Centralbyrån, SCB) labor force survey, and the “number of unemployment insurance recipients” from the Swedish Unemployment Insurance Board (IAF, Statistikdatabas). For the UK, the US, and Canada, refer to Table 1.

The countries and years for which data could be obtained are Germany (2000–2012), France (2000–2013), Denmark (2007–2013), Sweden (2005–2013), the US (2001–2013), Canada (2006–2013), and Japan (2000–2013).

Specifically, figures for Germany are official statistics released for each year. For France, Denmark, and Canada, I used the annual averages of monthly data; for Sweden, annual data on the number of unemployed workers and number of unemployment insurance recipients; for the UK, the annual averages of figures released quarterly; and for the US, annual data was employed for the years 2000 through 2012, while the annual average of monthly data was used for 2013 as no annual statistics had been released by the government.

Figure 4 and Figure 5 show recipient ratios calculated based on data released by governments and plotted chronologically. The data was divided into two graphs for convenience of comparison. Time-series data like this reveals changes in recipient ratios over time based on a larger set of information, and presents a more accurate picture compared to an international comparison at one particular point in time, like the one done by the ILO.

A rising trend can be seen for Germany, while Denmark and France remain more or less flat. Ratios trended downward in the UK, Canada, the US, and Japan. Table 2 and Figure 6 show the highest, lowest, and latest figures for each country. Figure 6 reveals that the latest ratios are close to the lowest ones, showing the downward trend in most countries.

When I compare these sets of data to the ILO figures cited in Section III, differences are evident, which are especially glaring in the cases of France and Denmark. With regard to France, I assume two different figures shown were respectively based on data from the INSEE and that from the Job Centre, each being calculated with its own definition. For Denmark, the ILO figures probably include people receiving social assistance. Some other countries have welfare programs (social assistance, public assistance) as well, but judging by the levels of the ratios, these numbers are not included. For purposes of international

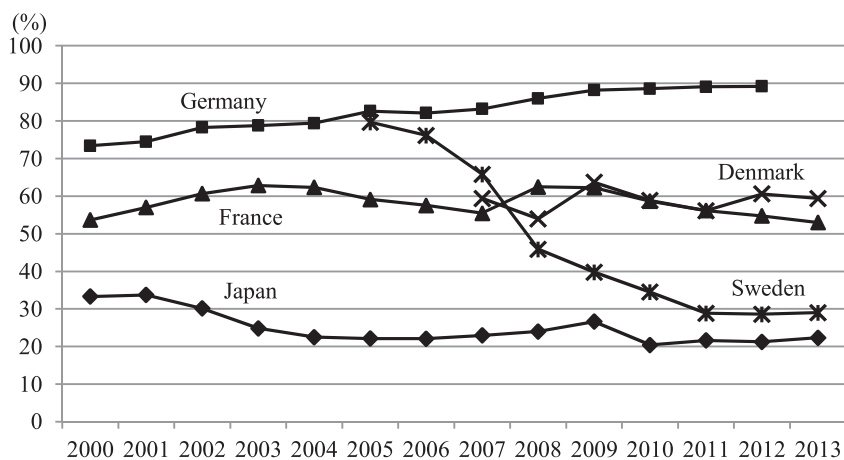


Figure 4. Changes in Unemployment Compensation Recipient Ratios (1)

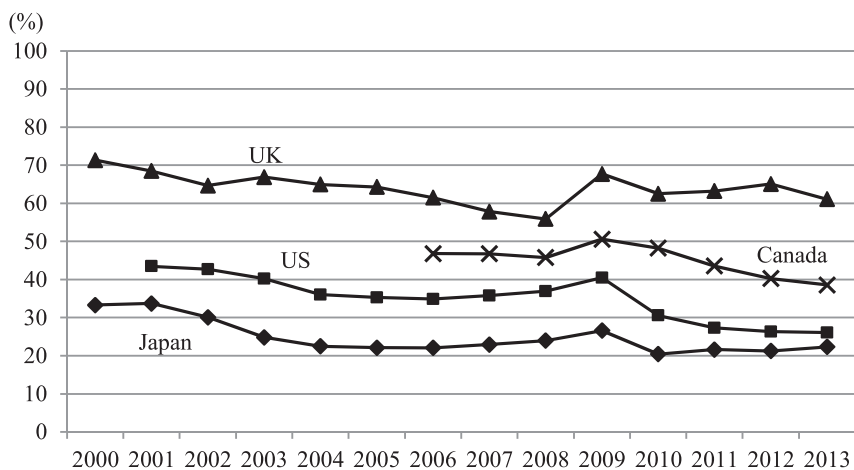
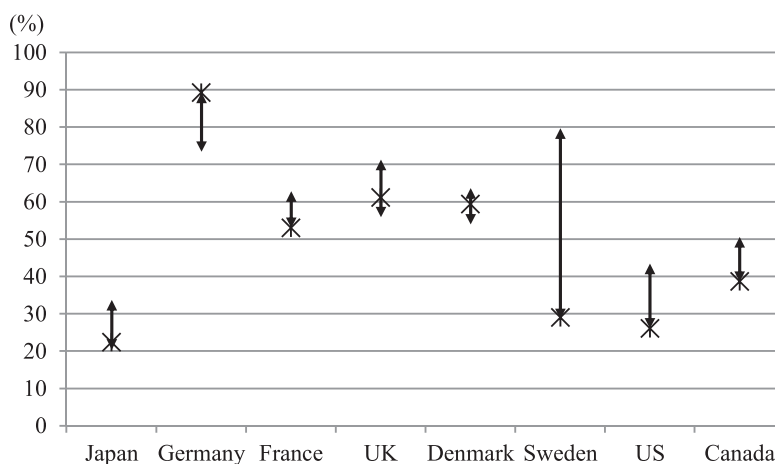


Figure 5. Changes in Unemployment Compensation Recipient Ratios (2)

Table 2. Comparison of Unemployment Compensation Recipient Ratios  
(Based on time-series data released by governments)

	Japan	Germany	France	UK	Denmark	Sweden	US	Canada
Highest	33.7 (2001)	89.2 (2012)	62.8 (2003)	71.3 (2000)	63.7 (2009)	79.7 (2005)	43.5 (2001)	50.6 (2009)
Lowest	20.4 (2010)	73.4 (2000)	53.0 (2013)	55.9 (2008)	54.0 (2008)	28.6 (2012)	26.1 (2013)	38.6 (2013)
Latest	22.3 (2013)	89.2 (2012)	53.0 (2013)	61.1 (2013)	59.4 (2013)	29.0 (2013)	26.1 (2013)	38.6 (2013)



*Note:* Arrows show gap between the highest and lowest values, and × indicates the latest value.

Figure 6. Comparison of Unemployment Compensation Recipient Ratios (Highest, Lowest and Latest Values)

comparison, consistent definitions and conditions should be used, and in this sense it is necessary to omit social assistance recipients from the figures for Denmark as well.

One particularly notable change shown in Figure 4 is the drastic drop in the ratio in Sweden. We will provide an outline of Sweden's unemployment compensation programs later in Section V. According to Chapter 4 of JILPT (2014, 95, 101), unemployment insurance program enrollment is not mandatory in the country. In 2006 the number of workers enrolled was approximately 3.79 million, accounting for over 80% of the labour force (workers aged 16 to 64), but as of September 2013 it had fallen to around 3.44 million, about 70% of the labour force. This is probably due to a major drop in the number of enrollees resulting from a revision of the unemployment insurance system in 2007. This revision reduced the amount of national government funding for unemployment insurance and increased the amount covered by individual fees paid by the workers. For the purpose of strengthening the effectiveness of the insurance function, "unemployment contributions" (fees to unemployment funds) were introduced, and the amount that unemployment insurance funds must pay to the government was increased. The increase in insurance premiums paid by workers apparently had the effect of reducing rates of enrollment in unemployment insurance (however, the unemployment contributions were abolished in a 2013 amendment of the LAK (Law on Unemployment Funds), effective as of January 2014).

The number of unemployment insurance beneficiaries likely decreased as a result of the drastic drop in unemployment insurance system enrollment caused by the 2007 revision. However, in 2007 labor market policy was revised at the same time the unemployment insurance law was amended, and it should be noted that a considerable number of workers

began receiving activity grants (*aktivitetsstöd*) instead of unemployment insurance (JILPT 2014, 101).

For a strict comparison between Sweden's unemployment compensation recipient ratio and those of other countries, the number of activity grant recipients eligible to receive unemployment insurance benefits should be extracted from the total number of activity grant and development allowance recipients, but detailed statistics for this could not be found.

## 2. Recipient Ratio of Unemployment Insurance Only

In this section, I compare recipient ratios limited to insurance programs only, omitting the number of assistance program beneficiaries. The results showed much lower recipient ratios for Germany and the UK compared to unemployment compensation programs as a whole. In other words, there was little difference between Japan and Germany, as shown in Figure 7, and the figure for the UK was actually lower than that for Japan (Figure 8). It is evident that recipient ratios for unemployment compensation as a whole were vastly higher for Germany and the UK than for Japan due to underlying support from nationally funded unemployment benefit programs.

From 2002 to 2007, Germany showed a downward trend, while France and the UK remained basically flat. The fact that Germany trended upward for unemployment compensation as a whole while trending downward for insurance programs only indicates an increase in the number of assistance program recipients (see Table 3 and Figure 9).

In this section, I analyzed data chronologically rather than focusing on figures for a certain fixed point in time, and clarified trends in the recipient ratios of each country. It is conceivable that revisions to compensation systems alter the scope of eligibility and applicability, and impact recipient ratios as a result. In Denmark, the duration of benefits was shortened from seven years to six in 1996, to five in 1998, to four years and nine months in 1999, to four years and three months in 2000, to four years in 2001, and to two years in 2010. As a result of these amendments, duration of benefits was shortened in this way in countries with a large number of long-term unemployed, and it is assumed that a large number of workers lost eligibility for unemployment compensation programs, resulting in a decline in recipient ratios.

I also found the trends for recipient ratios for unemployment insurance only, which has not featured in the ILO data. In Germany, the Hartz Reforms<sup>4</sup> of the early 2000s were intended to overhaul the labor market, and in terms of the unemployment insurance system in particular, it is significant that it was a shift from an income-compensation program to one that actively encouraged re-employment. The number of "Unemployment Benefits I" recipients shrank, while the number of "Unemployment Benefits II" recipients grew.

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<sup>4</sup> Hartz reforms are a set of wide-ranging labor market reforms in Germany implemented from 2002 through 2003.

International Comparison of Unemployment Compensation Programs

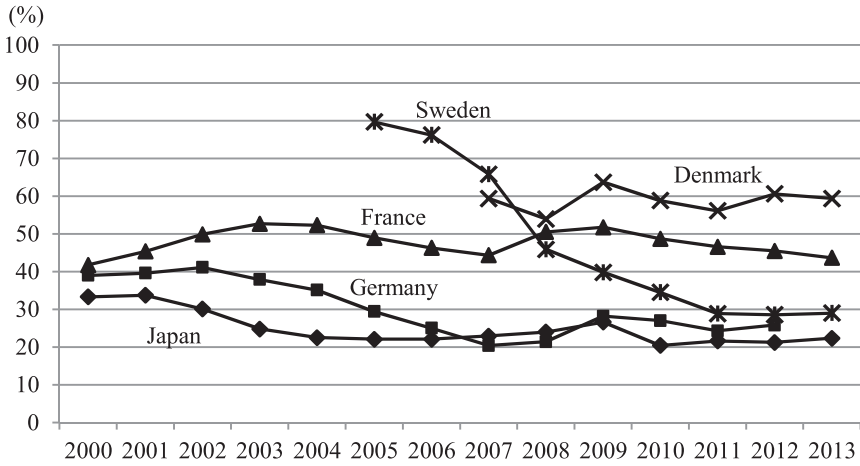


Figure 7. Changes in Unemployment Compensation Recipient Ratios (1)

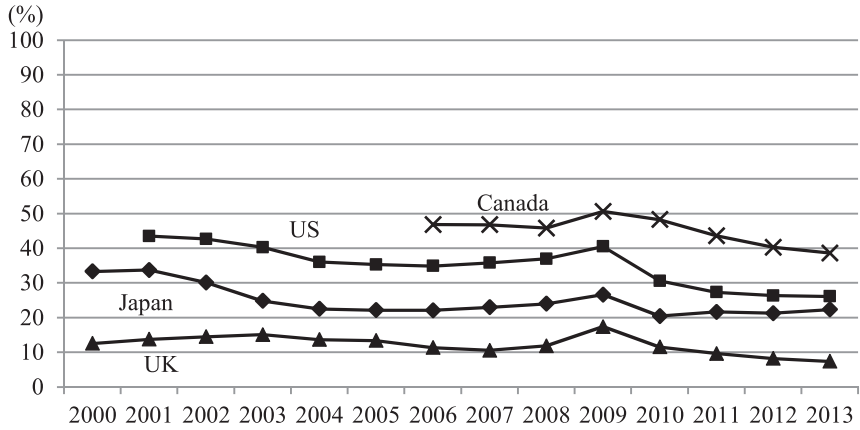
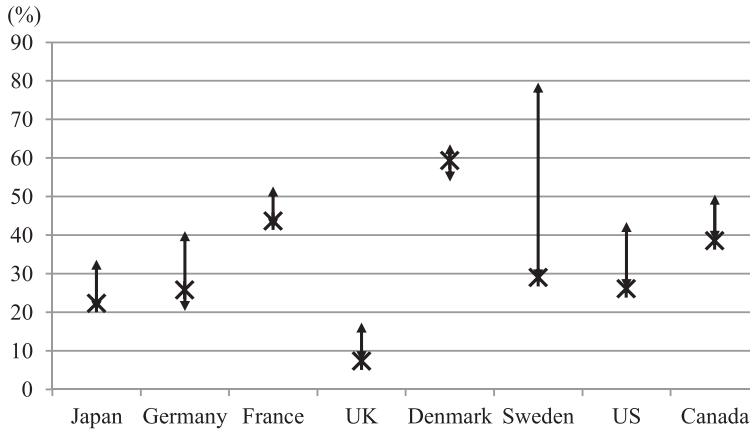


Figure 8. Changes in Unemployment Compensation Recipient Ratios (2)

Table 3. Comparison of Recipient Ratios for Unemployment Insurance Only  
(Based on time-series data released by governments)

	(Year)							
	Japan	Germany	France	UK	Denmark	Sweden	US	Canada
Highest	33.7 (2001)	41.1 (2002)	52.7 (2003)	17.4 (2009)	63.7 (2009)	79.7 (2005)	43.5 (2001)	50.6 (2009)
Lowest	20.4 (2010)	20.4 (2007)	41.7 (2000)	7.4 (2013)	54.0 (2008)	28.6 (2012)	26.1 (2013)	38.6 (2013)
Latest	22.3 (2013)	25.8 (2012)	43.7 (2013)	7.4 (2013)	59.4 (2013)	29.0 (2013)	26.1 (2013)	38.6 (2013)





Note: Arrows show gap between the highest and lowest values, and × indicates the latest value.

Figure 9. Comparison of Recipient Ratios for Unemployment Insurance Only (Highest, Lowest and Latest Values)

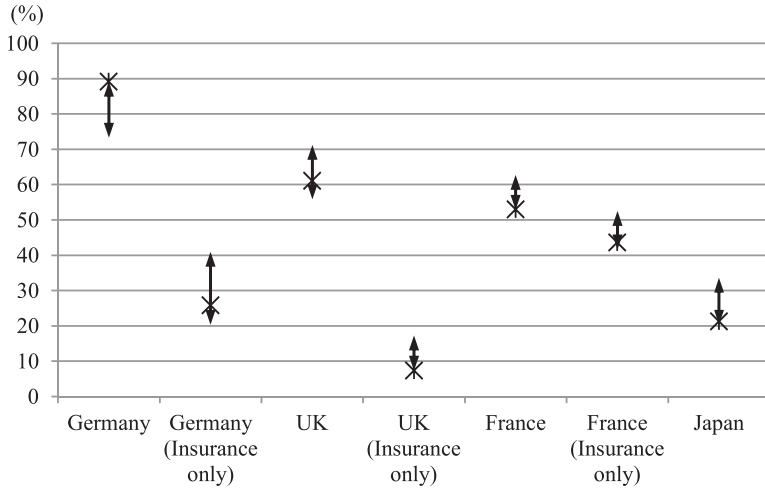
Adding the two together resulted in an extremely high recipient ratio of nearly 90%, but the ratio for insurance benefit recipients only is between 20–30%. As for the UK, the corresponding figure is under 10%, much lower than even that of Japan. Figure 10 shows the recipient ratios for unemployment compensation programs together with unemployment insurance. In terms of recipient ratios for Germany and the UK, we can see a significant difference between those for unemployment insurance only and unemployment compensation programs including assistance programs.

Time-series comparison of official figures released by governments also revealed that recipient ratios were trending downward in most countries. As a trend in systemic reforms, in France, for example, the emphasis has been shifting from the 1990s onward, from unemployment compensation as income compensation to unemployment assistance programs imposing strict requirements on beneficiaries, such as making job-seeking efforts and joining vocational training. The declining trend in recipient ratios thus can be seen as indicative of a shift toward support programs enabling the unemployed to return to work.

## V. Outline of Unemployment Compensation Systems in Four European Countries

In this section, we describe an outline of the unemployment insurance and assistant systems of four European countries (Germany, France, Denmark, and Sweden) based on a FY2013 survey<sup>5</sup> conducted by JILPT at the request of the MHLW (Table 4).

<sup>5</sup> The report on the survey results is JILPT (2014).



Note: Arrows show gap between the highest and lowest values, and × indicates the latest value.

Figure 10. Comparison of Recipient Ratios for Unemployment Insurance Only and for Unemployment Compensation (Arranged from time-series data)

Table 4. Outline of Unemployment Insurance Systems in Major OECD Nations

	Conditions for enrollment		Criteria for eligibility	Applicability to partial unemployment
	Procedure	Scope		
Germany	Mandatory	Applies to all employees*	12 months/2 years	
France	Mandatory	Applies to all employees*	4.3 months/28 months*	✓*
Denmark	Non-Mandatory	Applies to part-time employees working under 30 hours a week as well (no minimum working hours)	52 weeks/3 years	
Sweden	Non-Mandatory	Applies to part-time employees as well	6 months/12 months*	✓*
US	Mandatory	Applies to all employees*	Varies from state to state (ex.: in California, a designated income over five quarterly periods)	—
UK	Mandatory	Applies to contributors to national insurance scheme	1 year/2 years	✓*
Japan	Mandatory	Applies to employees who work 20 hours a week or more	12 months/2 years	—

Source: Referred to JILPT (2014), Higuchi (2013), JILPT (2008), etc.

Note: Asterisks are factors seen as raising the recipient ratio in comparison to Japan's.

### 1. Germany

In Germany, one unemployment insurance program is Unemployment Benefits I (JILPT 2014, chap. 3). In general, an insurance contribution period of 12 months or more out of a 24-month period of employment is a prerequisite for eligibility. There are several durations of benefits ranging from six to 24 months depending on the contribution period and the recipient's age. The duration of benefits is set at half the contribution period, so if the contribution period was the minimum 12 months, the duration of benefits is six months; it was 16 months or more, eight months; 20 months or more, 10 months; and the maximum contribution period, 24 months, has a benefit duration of 12 months. For unemployed workers aged 50 or above, if the contribution period was 30 months, the benefit duration is 15 months; for workers aged 55 and older, with a 36-month contribution period or more, benefits are paid for 18 months; and for workers aged 58 and older, if the contribution period was 48 months or longer, the benefit duration is 24 months. In addition, under a special limited-time measure (until December 31, 2014), workers whose contribution periods were less than 12 months are eligible for benefits, calculated in the same way (three months of benefits for a six-month contribution period, four months for an eight-month contribution period, and five months for a 10-month period). The program is funded by insurance premiums paid evenly by labor and management. Unemployed workers who have exhausted the duration of their unemployment-insurance benefits become eligible for unemployment assistance (Unemployment Benefits II), which is funded entirely by the national government. Unemployment Benefits II are paid in six-month periods with no limit on the number of times they can be renewed as long as the recipients meet the required conditions.

### 2. France

France has the unemployment insurance programs ARE (Allocation d'aide au Retour à l'Emploi), a support program for workers who are seeking to return to work, and ASS (Allocation de Solidarité Spécifique), a "specific solidarity allowance" for the unemployed (JILPT 2014, chap. 2). Under France's unemployment insurance system, workers become eligible for benefits after a relatively short contribution period, with prerequisites including an insured period of four months (122 days) or more during the 28 months prior to loss of employment, and involuntary loss of employment, etc. The duration of benefits is a maximum of 24 months for workers under the age of 50 and up to 36 months for those aged 50 or above. The program is funded by insurance premiums paid evenly by labor and management. Unemployed workers who have exhausted the duration of their unemployment insurance benefits, ARE, become eligible for unemployment assistance, ASS, funded entirely by the national government. These are paid in six-month periods and can be renewed as long as the recipients meet the required conditions.

### 3. Denmark

Denmark's unemployment insurance system (Arbejdsløshedsforsikring) has strong

ties to labor unions, and in many cases when workers join labor unions they simultaneously enroll in an unemployment insurance fund administered by the labor union (JILPT 2014, chap. 1). This fund consists entirely of insurance premiums paid by enrollees, with fixed-rate premiums determined by each unemployment insurance fund. To be eligible to receive benefits, workers must have been enrolled in the unemployment fund for one year or more, and must have worked 52 weeks or more during the past three-year period of enrollment (period of insurance premium payment). Until 1994, the duration of unemployment insurance benefits was extremely long at seven years, but a rising unemployment rate drove the program into fiscal insolvency, and the period has grown shorter and shorter, currently standing at two years (see Section IV. 2). This measure is aimed at reducing dependency on the social safety net and strengthening incentives to return to work. For unemployed workers who do not qualify for unemployment insurance, there is no specific system of unemployment assistance, but they are eligible for social assistance guaranteeing a minimum standard of living.

#### 4. Sweden

Sweden has a non-mandatory income-proportional insurance program (Inkomstrelaterad ersättning), as well as nationally funded basic insurance (Grundförsäkringen) (JILPT 2014, chap. 4). To qualify for income-proportional insurance, people must have worked at least 80 hours a month for at least six out of the last 12 months, or must have worked at least 50 hours a month and a total of at least 480 hours over six continuous months. In addition to the work requirements, they must have been enrolled in an unemployment insurance fund for at least 12 months. The duration of benefits for income-proportional insurance is set at a maximum 300 days across the board, but this is extended to 450 days when the recipient has a child less than 18 years of age. This program is funded by insurance premiums paid by enrollees and by national government subsidies. Insurance premiums vary depending on the unemployment insurance fund, while subsidies account for approximately two-thirds of the total amount paid. These subsidies are funded by a labor market tax paid by employers. Unemployed workers who are not enrolled in unemployment insurance funds, or who are enrolled but do not meet the eligibility requirements for the income-proportional insurance program, are eligible to receive basic insurance, although they must be at least 20 years of age. The duration of benefits is the same as that of the income-proportional insurance program.

For unemployed workers not covered by either of the above-described programs, there are activity grants (aktivitetsstöd) and development allowances (utvecklingsersättning) for workers who participate in labor-market policy programs such as “guaranteed employment for young people” and “introduction to working life.” The number of workers receiving activity grants instead of unemployment insurance has risen as a result of legal reforms enacted in 2007 (see Section IV. 1).

Table 5. Duration of Unemployment Compensation Benefits in Major OECD Countries

	Duration of payment	
	Unemployment insurance	Unemployment assistance
Germany	Up to 12 months	Renewable*
France	Up to 24 months (people under 50 yrs. old)*	Renewable*
Denmark	2 years*	—
Sweden	300 days (+150 days)	(Activity grant, development allowance)
US	Up to 25.6 weeks (avg. for 50 states)	—
UK	12 months	Renewable*
Japan	Up to 360 days	(Support System for Job Seekers)

Source: Referred to JILPT (2014), Higuchi (2013), JILPT (2008), etc.

Note: Asterisks are factors seen as raising the recipient ratio in comparison to Japan's.

### 5. Summary of Comparison of Four Countries

Administrative bodies, sources of funding, scope of eligibility and payment conditions, etc. differ from country to country, reflecting the societal background and historical course of labor-management relations in each country.

Regarding the scope of eligibility for unemployment insurance, the programs in Germany and France are forcibly applied to all workers in the private sector, whereas in Denmark and Sweden these programs are non-mandatory (Table 4). However, the Denmark program is notable for its broad scope of eligibility, applying to self-employed workers, public employees, and new graduates who have completed vocational training programs as well. In terms of administration, in Denmark and Sweden labor unions are heavily involved in unemployment insurance system administration, while in France labor unions and management organizations hold regular consultations for decision-making, and cooperate on organizational administration. Regarding duration of benefits, they tend to be longer in countries that have assistance programs, etc. supplementing the insurance system. Supplementary assistance programs exist in Germany and France (Table 5). In terms of effect on the recipient ratio, comprehensive coverage under assistance programs tends to lengthen the duration of benefits and appears likely to raise the recipient ratio. In addition, Sweden has a basic insurance program supplementing the non-mandatory one, while Denmark guarantees the income of unemployed workers who do not qualify for insurance benefits with social assistance (public assistance).

## VI. Discussion

This section examines factors that determine the recipient ratio, based on a comparison of the unemployment compensation programs in four European countries described in Section V and that of Japan.

### 1. Comparison of European Nations and Japan

In light of the four countries' systems outlined in Section V, factors contributing to a high or low unemployment compensation recipient ratio are as follows:

One factor is whether or not there is comprehensive coverage under assistance programs. France and Germany offer assistance programs as a safety net to workers who are ineligible for unemployment insurance benefits or whose duration of benefits has expired. This is consistent with the fact that the recipient ratio for insurance programs only in Germany is little different than that of Japan (see Figure 7), while the UK's is actually lower than Japan's (see Figure 8).

With regard to the scope of insurance enrollment eligibility, Germany, France, Denmark, etc. have broad scope in the sense of all workers having eligibility without minimum working-hours requirements. By contrast, in Japan people who work less than the prescribed 20 hours per week are not covered by an unemployment insurance scheme.

In terms of conditions for receiving benefits, in France workers who pay insurance premiums for approximately 4.3 months out of 28 months are eligible, while the corresponding term in Sweden is six months out of 12, meaning that workers become eligible earlier than in Japan, where they must pay premiums for at least 51 weeks out of two years. Germany's system is similar to Japan's, and Denmark's does not differ greatly at 52 weeks out of three years. In France, workers qualifying for benefits after a relatively short period of time can be assumed to be a factor boosting the recipient ratio, it is because the number of young workers receiving benefits during recurring periods of cyclical unemployment and re-employment is high compared to other countries.

Duration of benefits in France (24 months for workers under 50 years of age, 36 months for workers aged 50 and over) and Denmark (24 months) is long compared to Japan's 360-day maximum. The durations in Germany and the UK are nearly equivalent to those of Japan, while the duration in the US is shorter. France also has a scheme offering a longer duration of benefits for older workers, which also brings up the recipient ratio by providing assistance to the older long-term unemployed.

Partially employed workers are eligible for benefits in France and Sweden as well as in the UK. Benefit duration and payment amounts are differentiated from those of the completely unemployed, but this coverage is seen as boosting the recipient ratio by offering unemployment insurance benefits to workers who are working part-time (see Table 4).

The items marked with asterisks in Tables 4 and 5 are factors seen as raising the recipient ratio in comparison to Japan's.

Table 6. Recipient Ratio Including Support System for Job Seekers

	Support System for Job Seekers		Differential (% points)
	Not included	Included	
2011	21.6%	23.4%	1.8
2012	21.3%	24.9%	3.6

Source: Calculated based on to materials released by the MHLW of Japan.

## 2. Support Program for Job Seekers in Japan

In Japan, the Support System for Job Seekers was launched in 2011 as a relief program for unemployed workers who do not qualify for employment insurance. As this system is intended as a means of unemployment assistance, it is shown in parentheses on Table 5 in the section on unemployment assistance. To calculate the recipient ratio using its strict definition, this population should be added to the total. When the number of recipients in this program are added, the recipient ratio is brought up slightly, by around two to three percentage points (see Table 6).

Incidentally, the activity grants and development allowances institutionalized in Sweden are similar in nature to Japan’s Support System for Job Seekers (shown on Table 5 in the section on unemployment assistance). To calculate the Swedish recipient ratio, as well, using its strict definition, this population should be added to the total. However, according to JILPT (2014, chap. 4), figures differentiating between recipients of these vocational training allowances and recipients of unemployment benefits only could not be found, making this calculation impossible.

## VII. Conclusion and Suggestions

In this article, I reviewed methods of international comparison of unemployment benefits recipient ratios, by analyzing unemployment compensation programs in major OECD nations. By comparing periodically released ILO data with the figures released by each government, it examined the definitions and conditions of data that ought to be taken into account for purposes of international comparison. It also pointed out misleading results that can be obtained when simply comparing countries without verifying the precise definitions of “number of unemployed workers” and “number of recipients.” This article also looked into factors contributing to high or low recipient ratios, by presenting an overview of the systems in place in four European countries. The points clarified and suggestions obtained as a result of these analyses are as follows.

### 1. The Difficulty of Performing International Data Comparisons

The calculation of recipient ratios, a prerequisite for rigorous international compari-

son, presents a challenge. As the scope and conditions for eligibility differ under the systems of different countries, a simple comparison lacks validity. Even if definitions are made as consistent as possible and conditions affecting the comparison noted, the results of comparative analysis have a high probability of inviting misinterpretation on the part of the reader.

## 2. Two Factors Contributing to High Recipient Ratios

Examination of data and program contents in Germany, the UK, and France indicated that countries with high recipient ratios offer comprehensive coverage under unemployment assistance programs. In Germany and the UK in particular, the recipient ratios for the insurance system only are comparable to that of Japan. Another factor is a lengthy duration of benefits. In France and Denmark, duration of benefits is comparatively long, and in France it is particularly long for older unemployed workers.

## 3. Questionability of Japan's Ostensibly Low Recipient Ratio

This study indicates that Japan's recipient ratio could not be as low as the international comparison figures released by the ILO indicate. With regard to unemployment insurance recipients only, the ratio is comparable to those of Germany and the UK. In addition, when the numbers are calculated rigorously, omitting unemployed people aged 65 or older and including beneficiaries of the Support System for Job Seekers, Japan's recipient ratio rises a few percentage points.

## 4. Declining Trend in Recipient Ratios

When data was examined chronologically, rather than merely comparing figures at a fixed point, it was clear that recipient ratios have changed as a result of revisions of systems. In most countries analyzed, ratios were trending downward. In the past, unemployment benefits were a significant source of income compensation during periods of unemployment. In recent years, however, active job seeking has become a criterion for eligibility, participation in vocational training programs is increasingly made mandatory, and in general there is a paradigm shift toward return to work as the objective of unemployment benefits. This is thought to be a factor contributing to the across-the-board decline in recipient ratios.

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